



550 Mamaroneck Avenue, Suite 305A  
Harrison, New York 10528  
Toll-free: 1-866-269-9393  
www.ga-ge.com

## ELECTRIC ENROLLMENT CONSENT FORM – NEW YORK

Commercial Terms & Conditions

Full Name of Business Entity or Sole Proprietor (including DBA): \_\_\_\_\_

Billing Address: \_\_\_\_\_ Billing City: \_\_\_\_\_ Billing State: \_\_\_\_\_ Billing Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_ Email: \_\_\_\_\_

Name on Utility Account (if different): \_\_\_\_\_

Service Address: \_\_\_\_\_ Service City: \_\_\_\_\_ Service State: \_\_\_\_\_ Service Zip: \_\_\_\_\_

### Electricity Supply

Utility Name: \_\_\_\_\_ Account #: \_\_\_\_\_ Addendum: ☐

Agreement Term Start Month: \_\_\_\_\_ End Month: \_\_\_\_\_ Term (in months) \_\_\_\_\_

Rate Class/Load Type: \_\_\_\_\_ Billing Method: ☐ Single Billing ☐ Dual Billing Pricing: ☐ RR-Rack Rate ☐ CP – Custom

### You are enrolling on GAGE's (please select your plan below):

☐ **FIXED RATE ELECTRICITY:** Customer will pay a price of \$ \_\_\_\_\_ per kWh, plus all applicable taxes and assessments for \_\_\_\_\_ % of volume. Price will be in effect from the first available meter read date after the LDC accepts the enrollment, through the end month specified above.

☐ **DA LMP INDEX + ADDER:** This price will be the sum product of each DA LMP price and the client's consumption across all of the intervals in a billing period, expressed in \$ per kWh, plus the adder rate of \$ \_\_\_\_\_ per kWh, adjusted for Utility losses and billing programs for \_\_\_\_\_ % of volume. Price will be in effect from the first available meter read date after the LDC accepts the enrollment, through the bill cycle occurring in the end month specified above. Additional information about the product is included in the Terms & Conditions attached below.

☐ **MANAGED RATE:** The price will be determined monthly, based on the aggregate volume of all customers in the designated managed pool and an evaluation of market conditions. Market conditions may reflect, but are not limited to, factors such as GAGE's total acquisition costs, including prevailing commodity costs and transportation to the LDC, as well as rates offered by the customer's LDC and GAGE's competitors. The pricing methodology will be in effect for the Term of the Agreement.

**TAXES:** Customer will be liable for and pay all taxes, assessments and/or surcharges, which are imposed with respect to the commodity provided under this Agreement. If Customer is exempt from such taxes, Customer is responsible for identifying and requesting any exemption from the collection of the taxes by filing appropriate documentation with GAGE and the LDC as appropriate. Please see additional information regarding Taxes in Section 13 of the Terms & Conditions.

### Tax Exempt – Please select the tax exemption applicable to your business.

- ☐ Exempt Purchaser Certificate  
☐ ST-121 Exempt Use Certificate

IN WITNESS WHEREOF, Customer and GAGE have caused this Agreement to be executed as of the date first set forth above. By signing below, Customer acknowledges that a) Customer is at least 18 years of age, b) Customer is authorized to purchase commodity supply for this account, c) Customer has read the Terms and Conditions and supporting documents to this sale, and d) Customer authorizes GAGE to initiate and begin service on the account(s).

Name: \_\_\_\_\_

GAGE Representative: \_\_\_\_\_

Job Title: \_\_\_\_\_

Job Title: \_\_\_\_\_

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_



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## RATE SUMMARY SHEET & BANDWIDTH SCHEDULE

Commercial Terms & Conditions

**Bandwidth:** The data included in the table below represents the "Base Load" quantity used by GAGE to price this account. This information is furnished to GAGE by the Customer's LDC or estimated by GAGE based on Customer's rate class. See Section 3 of the Terms & Conditions for additional information regarding Bandwidth.

**Billing:** Customer may receive a single bill for both commodity and delivery costs from the LDC ("Consolidated Billing") or the LDC and GAGE may invoice Customer separately ("Dual Billing"). If billed by the LDC, Customer will be subject to the LDC's payment terms. If billed directly by GAGE, Customer agrees to pay each invoice in full by its due date or be subject to a late payment charge of 1.5% per month. See Section 5 of the Terms & Conditions for additional details regarding billing and payments.

| Historical Usage Data – Prior 12 months                |  |                                                                                                                                        |  |
|--------------------------------------------------------|--|----------------------------------------------------------------------------------------------------------------------------------------|--|
| Usage data is furnished to GAGE by the utility company |  | Your Bandwidth is: <input type="checkbox"/> 0% <input type="checkbox"/> 10% <input type="checkbox"/> 25% <input type="checkbox"/> 100% |  |
|                                                        |  |                                                                                                                                        |  |
|                                                        |  |                                                                                                                                        |  |
|                                                        |  |                                                                                                                                        |  |
|                                                        |  |                                                                                                                                        |  |
|                                                        |  |                                                                                                                                        |  |
|                                                        |  |                                                                                                                                        |  |

**Termination:** After service begins, Customer may cancel it at any time during the Initial or Renewal Terms but may be required to pay an Early Termination Fee ("ETF") as specified in Section 6 of the Terms & Conditions.

**Customer Definition:** This Agreement is applicable to demand metered electric customers or non-residential electric customers with annual gas consumption is greater than 750 dekatherms (Dth), or equivalent, per year.

**Renewal:** Unless GAGE sends Customer written notice of any proposed changes to these Terms & Conditions in advance of the expiration of the Initial Term, this Agreement will automatically renew on a month-to-month basis, under a monthly variable rate methodology ("Hold Over Rate"). Please see Section 6 of the Terms & Conditions for additional information about the renewal of your Agreement.

### LDC and Consumer Affairs Information:

|                          |                                                                                                                                                                                                                                                                                |
|--------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| LDC Emergency Contact    | <b>Central Hudson Gas &amp; Electric:</b> 1-800-527-2714; <b>Rochester Gas &amp; Electric:</b> 1-888-253-8888; <b>Orange &amp; Rockland:</b> 1-877-434-4100; <b>National Grid:</b> 1-800-892-2345; <b>Consolidated Edison:</b> 1-800-752-6633; <b>NYSEG:</b> 1-800-572-1131    |
| Consumer Affairs Contact | <b>Department of Public Service:</b> phone: 1-800-342-3377 (8:30 am - 4:00 pm), mail at Office of Consumer Services, NYS Department of Public Service, 3 Empire State Plaza, Albany, NY 12223; online at <a href="http://www.dps.state.ny.us">http://www.dps.state.ny.us</a> . |

**Business Operational Contact:** From time to time, GAGE may need to contact the Customer regarding operational matters. In addition, daily balanced Customers must have personnel available to respond to GAGE inquiries regarding customer usage.

Operations Contact: \_\_\_\_\_

Operations e-mail: \_\_\_\_\_

Operations cell phone: \_\_\_\_\_

This contract is governed by Great American Gas & Electric's Commercial Terms & Conditions version V.04.23.2025 Facsimile and electronic signatures on the Agreement shall be deemed original.

Customer's Initials: \_\_\_\_\_



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# Great American Gas & Electric Commercial Terms & Conditions

V.04.23.2025

**1. Agreement to Sell and Purchase Energy** – These Terms & Conditions, together with the Enrollment Consent Form (“ECF”), the Rate Summary Sheet (“RSS”) and any GAGE countersigned addendums constitute the Agreement between Great American Gas & Electric, LLC (“GAGE” or “Seller”) and the undersigned customer (“Customer”), under which Customer shall initiate electricity and/or natural gas service and begin enrollment with GAGE (the “Agreement”). Subject to the Terms and Conditions of this Agreement, GAGE agrees to sell, and Customer agrees to purchase and accept, the quantity of electricity and/or natural gas, as estimated by GAGE, necessary to meet Customer’s requirements. Quantities are based upon consumption data obtained by GAGE prior to the provision of the quoted price or the delivery schedule of the Local Distribution Company (the “LDC”). The amount of electricity and/or natural gas delivered under this Agreement is subject to change based upon data reflecting Customer’s consumption obtained by GAGE or the LDC’s delivery schedule. The LDC will continue to deliver the electric and/or natural gas commodity supplied by GAGE.

**2. Term** – This Agreement will become effective and binding after Customer has signed the ECF and an authorized employee of GAGE has either countersigned the Agreement or submitted and received an enrollment acceptance from the LDC.

**a. Start Date:** Subject to successful enrollment of Customer’s account(s), this Agreement shall commence on or about the first billing cycle occurring after the date set forth under “Start Month.” The actual Start Date is contingent on the LDC successfully enrolling the account(s) and furnishing GAGE with all the necessary information regarding the account(s) meter read cycle and meter read date(s). GAGE will use commercially reasonable efforts to begin service to each account(s), however, if GAGE is unable to timely enroll the account(s), the Start Date will commence on the next regularly scheduled LDC meter read cycle date following successful enrollment or may result in a Termination of the Agreement.

**b. End Date:** This Agreement will be in effect through the End Month specified in the ECF and shall end on or about the first meter read set forth under the End Month, unless extended on a Hold Over Rate basis as described in this Agreement (the “Initial Term”). At its discretion, GAGE may extend the End Date of the Agreement to accommodate the number of billing cycles outlined in the ECF.

GAGE shall not be liable for any failure to enroll or drop an account by the Start and End Month due to circumstances beyond its control. GAGE will not be responsible for any gaps in service that may occur between the termination of Customer’s service from a prior supplier and the commencement of supply from GAGE. GAGE will not be responsible for any gaps in service that may occur between termination of GAGE’s service and commencement of service with another supplier.

**3. Pricing**– The price for all electricity and/or natural gas sold under this Agreement is set forth on the ECF and shall be subject to all applicable taxes or assessments. Unless otherwise indicated, GAGE’s price does not include utility distribution service and other utility-related charges, which are separate amounts owed to the LDC.

**a. Usage Bandwidth Changes:** GAGE reserves the right to modify the terms of this Agreement to account for material changes in the customer’s historical monthly usage (“Bandwidth Changes”) as defined by the bandwidth percentage specified in the Customer’s RSS. The “Base Load” quantity will be derived from the Customer’s historical usage during the previous 12 months. For fixed priced service Agreements, if usage in any month exceeds the contracted maximum tolerance level of usage (Bandwidth), at GAGE’s option, the Customer will be charged a variable market price, plus all applicable taxes, for all usage exceeding the bandwidth and the contracted price for usage up to

the maximum tolerance level of usage. If the usage in any month falls below the contracted minimum tolerance level of usage (minimum Base Load), the Customer will be charged the contracted price for all usage and shall be charged at the contracted price for the difference in the consumed volume and the minimum Base Load less any credit for disposing the excess commodity. Base load is determined by utilizing the delivery requirements provided by the LDC and obtained by GAGE at the time of pricing.

**4. Billing and Payment** - GAGE will charge Customer monthly for electricity and/or natural gas delivered under this Agreement, as measured by the LDC. Customer will pay each charge as described in the Invoicing and Payments section below:

**a. Invoicing and Payments:** Customer may receive a single bill for both commodity and delivery costs from the LDC (“Consolidated Billing”) or the LDC and GAGE may each invoice Customer separately (“Dual Billing”). If billed by the LDC, Customer will be subject to the LDC’s payment terms. If Dual Billed, Customer agrees to pay each invoice in full by its due date or be subject to a late payment charge of 1.5% per month. The due date for dual invoices is 20 calendar days from the invoice date, unless an alternate due date is agreed upon, in writing, by both parties. For dual billing customers, GAGE’s acceptance of a payment for a lesser amount, with an endorsement or statement thereon, or upon any correspondence accompanying or relating to such payment, that such lesser amount is payment in full, shall be given no effect. GAGE may accept such payment without prejudice to any other rights or remedies that GAGE may have against Customer and may apply it to Customer’s account(s) as a partial payment. In all instances, GAGE may assign and sell Customer accounts receivable to the LDC. Failure to make full payment of GAGE charges due on any consolidated bill prepared by the LDC for GAGE, may be grounds for disconnection of utility services in accordance with state rules and regulations on the termination of service to non-residential customers.

**b. Rebilling:** GAGE bills according to information received from the LDC. If the LDC adjusts monthly volumes and/or performs cancel/rebiling, or if GAGE finds any error in its billed rates within 24 months of issuance of the rate, GAGE will recalculate the Customer’s costs according to the new data. There is no time limitation on when GAGE can perform re-billing based on LDC errors, incorrect or missing information. If Customer participates in GAGE’s auto-debit program, GAGE will use the Customer’s financial information on file to withdraw the funds directly from the Customer’s bank account or credit card. In certain instances, rebilling may occur via the Customer’s LDC single billing method or GAGE will provide the adjusted charges via a separate invoice.

**c. Returned Payments:** A \$40.00 service fee will be charged for all returned payments regardless of whether such payment was originally made via check, electronic funds transfer or credit card.

**5. Renewal** - Unless GAGE sends Customer written notice of any proposed changes to these Terms and Conditions in advance of the expiration of the Initial Term, this Agreement will automatically renew on a month-to-month basis, under a monthly variable rate methodology (“Hold Over Rate”). The monthly variable rate is a rate which fluctuates monthly and is set at GAGE’s discretion. GAGE typically considers the following factors when setting variable rates: Unless otherwise agreed to by Customer and GAGE, if Customer is receiving supply service under a fixed price or an index price, upon completion of the initial fixed price Term or Initial Index price term, this agreement will automatically renew into successive 12-month terms

**a. For Electricity**– the cost of procuring power; including wholesale prices; ancillary service costs, capacity auctions, utility fees; transmission and distribution losses and storage costs.



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**b. For Natural Gas-** the cost of procuring Natural Gas; including wholesale commodity prices, pipeline, transmission and storage fixed costs, utility fees, losses and storage variable costs, weather, supply congestion and infrastructure issues.

**c. For both electricity and natural gas-** i) publicly available competitor pricing, ii) strategic business objectives, iii) customer retention or attrition, iv) market volatility or uncertainty, v) anticipated customer usage, vi) legal or regulatory issues, and vii) profit margin.

As stated in the RSS of this Agreement, the Customer will be apprised of any proposed changes in the Terms and Conditions and of the right to renew, terminate or renegotiate the Agreement. The "Renewal Term" shall be any period for which service is provided after the Initial Term.

## 6. Termination -

**a. Customer's Right to Terminate Service:** After execution of this Agreement, Customer may cancel it at any time during the Initial or Renewal Terms, but will be required to pay an Early Termination Fee ("ETF") as specified below:

- **For Fixed Rate Agreements:** If Customer terminates this Agreement prior to the end of the Initial or Renewal Term, or GAGE terminates this Agreement due to Customer's breach, the Customer shall pay, in addition to any other applicable charges an ETF. The ETF shall be calculated for each remaining month in the Agreement, starting with the current month. For each month, the calculation will be equal to the difference between (i) the contractual price and the future commodity price midpoint on the day of termination, adjusted for bid spread discount, (ii) multiplied by the remaining volume on remaining months of the contract, as specified in the ECF. The total ETF represents a sum of the monthly calculations.

In no event shall any termination payment be made to Customer. Customer shall be liable for all costs including, without limitation, legal fees associated with the collection of outstanding charges

- **For Variable Rate Agreements:** Customer taking service under Variable Rate products, can terminate the Agreement anytime, without Cancellation fees, by providing GAGE with 30 days written notice.

**b. GAGE's Right to Cancel Service:** Customer is affirming to GAGE that they have provided GAGE with correct and complete enrollment information. If there is any evidence that any of these statements are or become untrue, or Customer otherwise provides fraudulent or misrepresented information, GAGE reserves the right to cancel this Agreement immediately.

**7. Credit** – Customer authorizes GAGE to conduct a credit history examination of Customer, which will entail contacting credit reporting agencies. The provision of service under this Agreement is contingent upon GAGE providing, at its discretion, credit approval to the Customer. Customer agrees that GAGE in its discretion may request any financial information and/or financial assurances that it deems necessary with respect to serving Customer under this Agreement, consistent with applicable regulations. If there is a material adverse change in the business or financial condition of Customer (as determined by GAGE at its discretion) or if Customer fails to meet its obligations under this Agreement or pay or post any required security deposit, then, in addition to any other remedies that it may have, GAGE may terminate this Agreement upon written notice to Customer.

**8. Renewable Energy (Electricity Only)** – This applies only to Customers who elect to purchase an off-setting percentage of annual usage for the Renewable Energy Product as listed in the ECF. Included in the purchase of this electricity product, GAGE ensures that electricity equal to the percentage of the Customer's electricity usage is produced by power generation facilities a) located in the United States; b) using renewable resources (such as wind, solar, geothermal, water and biomass); and c) added to the national power grid since 1997. GAGE does so by purchasing and retiring renewable energy certificates or credits over quantities already required by the state.

Customer may not have electricity from a specific generation facility delivered directly to its service address, but Customer's purchase ensures that the

applicable percentage of electricity usage is offset by the generation of energy from renewable sources in the United States on an annual basis. GAGE may take up to 12 months following the close of a calendar year to make up any deficiency in the renewable resource content for this product.

For additional information on green energy, visit the US Department of Energy's website at <https://www.energy.gov/eere/solarpoweringamerica/guide-purchasing-green-power>

**9. Assignment** – Customer may not assign its interests in and delegate its obligations under this Agreement without the express written consent of GAGE, which shall not be unreasonably withheld. GAGE may sell, transfer, pledge, or assign the accounts receivable, revenues, or proceeds hereof, in connection with any financial agreement, purchase of accounts receivables program or billing services agreement, and may assign this Agreement to another energy supplier, energy services company or other entity as authorized by the Public Service Commission.

**10. Information Release Authorization** – Customer authorizes the release by the LDC of Customer's historic usage information to GAGE. This information may be used by GAGE to determine whether it will commence and/or continue to provide Supplier Service to Customer. GAGE may disclose this information and other customer related information, including, without limitation, usage history, price, and payment history to any Broker, Agent or GAGE representative associated with the transaction with the Customer. This authorization will remain in effect during the entire period during which supplier service is provided by GAGE to Customer.

**11. Consumer Protection** – The services provided by GAGE to Customer are governed by the Terms and Conditions of this Agreement. GAGE will provide at least 15 days prior written notice before cancellation of service to Customer for contract breach. Customer may obtain additional information by contacting GAGE at 1-866-269-9393 or the Public Service Commission. Commission's contact information is added to the RSS of this Agreement. Customer should contact their LDC for details on the availability and terms of default service.

**12. Agency** – Customer hereby designates GAGE as its agent to (a) arrange and administer contracts and service agreements between Customer and GAGE and entities engaged in the generation, transmission and delivery of Customer's electricity supplies and interstate pipeline transporters of natural gas; (b) nominate and schedule with the appropriate entities including the LDC, for the delivery of electricity and/or natural gas to the Sales Point and the Customer's end-use premises; (c) aggregate Customer's natural gas with the natural gas supplies of GAGE's other customers, in order for Customer to qualify for transportation service; and (d) to address and resolve imbalances (if any) during the Term of this Agreement. GAGE as agent for the Customer, will schedule the delivery of adequate supplies of electricity and/or natural gas Customer's city gate requirements, based on the consumption and other information that GAGE receives from the LDC.

**a. For Electricity** - The Sales Points for electricity shall be a point at the Independent System Operator's GAGE load bus (located outside of the municipality where Customer resides). These services are provided on an arm's length basis and market-based compensation is included in the price noted above.

**b. For Natural Gas:** The Sales Points for natural gas shall be a point or points located outside of the state selected from time to time by GAGE to ensure service reliability. The Delivery Points for natural gas transported by interstate pipelines will be the city gate stations of the LDC. GAGE agrees to transport or arrange for the transportation of the natural gas from the Sales Points to the Delivery Points and from the Delivery Points to the Customer's premises. GAGE will supply Customer's full requirements for natural gas at all facilities listed in this Agreement on a firm basis and will be responsible for any penalties imposed by the LDC for failure to deliver, unless failure was directly caused by Customer or LDC's negligence and/or meter malfunction. Customer agrees to purchase all its natural gas requirements from GAGE on a firm basis.



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**13. Taxes, Title, Risk of Loss, Etc.** – Customer and GAGE agree that title to, control of, and risk of loss of the electricity and/or natural gas supplied under this agreement will transfer from GAGE to Customer at the Sales Point(s). Customer will be liable for and pay all taxes, assessments or surcharges, which are imposed with respect to the electricity and/or natural gas provided hereunder. If Customer is exempt from such taxes, Customer is responsible for identifying and requesting any exemption from the collection of the taxes by filing appropriate documentation with GAGE and the LDC, as appropriate.

**14. Warranty** – This Agreement (including applicable attachments) as written, constitutes the entire Agreement between Customer and GAGE. GAGE makes no representations or warranties, other than those expressly set forth in this Agreement and GAGE expressly disclaims all other warranties, express or implied, including merchantability and fitness for a particular use. Additionally, GAGE specifically disclaims any warranty or guarantee that the price charged by GAGE for the energy supplied pursuant to the Agreement will be lower than the price that Customer would have been charged by the utility or another energy supplier.

**15. Force Majeure** – GAGE will make commercially reasonable efforts to provide electricity and/or natural gas hereunder but GAGE does not guarantee a continuous supply of electricity and/or natural gas to Customer. Certain causes and events out of the control of GAGE ("Force Majeure Events") may result in interruptions in service. GAGE will not be liable for any such interruptions caused by a Force Majeure Event, and GAGE is not and shall not be liable for damages caused by Force Majeure Events. Force Majeure Events shall include acts of God, fire, flood, storm, terrorism, war, civil disturbance, plague, epidemic, pandemic, outbreaks of infectious disease or any other public health crisis including quarantine or other employee restrictions, accidents, strikes, labor disputes or problems, required maintenance work, inability to access the local distribution utility system, non-performance by the LDC (including, but not limited to, a facility outage on its natural gas and/or electricity distribution lines), or any other cause beyond GAGE's control.

**16. Liability** – The remedy in any claim or suit by Customer against GAGE will be solely limited to direct actual damages (which will not exceed the amount of Customer's single largest monthly invoice amount in the immediately preceding 12 months). All other remedies at law or in equity are hereby waived. In no event will either GAGE or Customer be liable for consequential, incidental, indirect, special or punitive damages. These limitations apply without regard to the cause of any liability or damages. There are no third-party beneficiaries to this Agreement.

**17. Measurement** – Both parties agree hereto to accept for purposes of accounting, the quantity, quality, and measurement of electricity and/or natural gas as reported by the LDC, including cancellation and re-bills.

**18. Contact Information** – Customer may contact GAGE's Customer Service Center at 1-866-269-9393, Monday through Friday 9:00 a.m. - 5:00 p.m. EST (contact center hours subject to change) or visit our website at [www.ga-ge.com](http://www.ga-ge.com). For all communication regarding this Agreement, if Customer provides an email address at the time of enrollment, or at Customer's request thereafter, Customer authorizes electronic delivery of correspondence related to the Agreement. While electronic authorization is in effect, GAGE will use electronic notifications as a primary method of communication regarding account matters, and USPS, as secondary method, if electronic delivery fails.

**19. Dispute Resolution and Class Action Waiver** – In the event of a billing dispute or disagreement involving GAGE's service, Customer must notify GAGE in writing within 60 days from the due date of the disputed invoice, otherwise the dispute is deemed waived. Customer must pay the bill in full, except for the specific disputed amount, during the pendency of the dispute. Except as otherwise provided herein, if the parties cannot resolve the dispute within 45 days, either party may avail itself of all remedies available under law or equity. The Department's Office of Consumer Services can be reached via the contact information available on the RSS. Any controversy or claim arising out of or relating to this contract, or the breach thereof, shall be settled by arbitration administered by the American Arbitration Association in accordance

with its Commercial Arbitration Rules, and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. The parties agree that (i) no proceeding hereunder shall be certified as a class action or proceed as a class action, or on a basis involving claims brought in a purported representative capacity on behalf of the general public, other customers or potential customers or persons similarly situated, and (ii) no proceeding hereunder shall be consolidated with, or joined in any way with, any other proceeding. Notwithstanding the foregoing, in the event of non-payment by Customer, GAGE may bring such action in any court located in the state where service is being provided this Agreement and Customer hereby irrevocably submits to the exclusive jurisdiction of the federal or state courts located in the state where service is being provided this Agreement for the purpose of any such action.

**20. Choice of Laws** – Except as provided in Section 19, venue for any lawsuit brought to enforce any Term or Condition of this Agreement or to construe same, shall lie exclusively in the State of New York, Westchester County. This Agreement shall be construed under and shall be governed by the laws of the State of New York without regard to the application of its conflicts of law principles.

**21. Taxes and Laws** – Except as otherwise provided in the Agreement or provided by law, all taxes of whatsoever kind, nature and description due and payable with respect to service provided under this Agreement, other than taxes based on GAGE's net income, shall be paid by Customer, and Customer agrees to indemnify GAGE and hold GAGE harmless from and against any and all such taxes.

**22. Regulatory Changes** – This Agreement is subject to present and future legislation, orders, rules, regulations, forecasts, market designs or decisions of a duly constituted governmental authority, Independent System Operator (ISO), its committees, LDCs other Entities having jurisdiction over this Agreement or the services to be provided hereunder. If at some future date there is a change in any law, rule, regulation, forecast, generation capacity or transmission allotment, pipeline capacity or storage allotment, tariff or regulatory structure including changes in reliability and environmental requirements ("Regulatory Change"), which impacts any term, formula, formula input, condition or provision of this Agreement including, but not limited to price, GAGE shall have the right to modify this Agreement to reflect such Regulatory Change, by providing written notice of such modification to the Customer. For Electricity, the per kWh price set forth in this Agreement includes the latest available Minimum Standard percentages as set forth by each state's Department of Energy ("DOER"). All years in the future where Minimum Standard percentages are not known, shall be set at the latest known percentages. Any percentage above the currently known Minimum Standard percentage, once announced by each state's DOER for subsequent years, will be passed through to the Customer. The kWh price of this From time to time, GAGE may also make changes to its Terms & Conditions. If GAGE makes any changes that are material to Customer's Agreement, GAGE will send a written notice at least 15 days prior to making such changes. Notice will explain the changes and, if required, request Customer's consent.

**23. Material Changes** – The rate under this Agreement may be adjusted to account for Material Changes described below. A Material Change is a change in conditions outside of commercially reasonable control of GAGE, which results in a 25% decrease in the monthly economic value of the rate charged under the Agreement. Material changes include but are not limited to customer's load factor, capacity tags, peak day allocations, abrupt change in weather patterns outside of Bandwidth changes or other general changes in conditions in the electric and gas industries deemed outside of GAGE's control. The economic value will be measured monthly, over the life of the Agreement, as the difference between the currently effective rate minus all supply and other related costs incurred to provide service. Every month, GAGE will absorb the first 25% of decrease in economic value resulting from a Material Change and pass through any amount exceeding that threshold. For the purpose of computing the initial 25% threshold, if multiple Material Change events occur, the amounts of charges will be calculated on a cumulative basis and only the



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amounts exceeding the initial 25% threshold will be passed through to the Customer.

## **24. Customer Obligation Regarding Outages, Utility Interruptions and Monitoring of Usage**

### **a. Customer Outages**

Customer is solely responsible for notifying GAGE of any and all change(s) or event(s) that might affect customer's ability to receive supply. This includes both planned and unplanned outages. Notification must occur as soon as Customer knows or should have known about any such change(s) or event(s).

### **b. Utility Interruptions**

For interruptions initiated by the utility, Customer must adhere to the standards of service required under the applicable LDC's tariff and complete shut down and/or switch to an alternative fuel, as required by the tariff.

### **c. Monitoring of Usage**

- **Daily Balanced Customers:** Daily Balanced Customers are responsible for ensuring that the proper telemetry is operational and able to provide information about Customer's daily usage pattern. In addition, Customer must always have personnel available to respond to GAGE inquiries regarding daily customer usage.

- **Interruptible (Non-Firm) customers:** Interruptible (Non-Firm) Customers must maintain telemetry consistent with the requirements of the LDC's tariff and have personnel available 24-hours in advance of and during LDC-initiated interruptions to respond to GAGE inquiries regarding daily customer usage.

- **Time of Use Customers:** Customers receiving service under time differentiated rates must adhere to the telemetry requirements of the LDC.

Failure to comply with any of the above provisions shall result in a transfer to the customer of all costs, penalties and interest incurred by GAGE to provide service and/or Termination of this Agreement. In addition, any decrease in usage resulting from a customer planned or unplanned outage will not relieve Customer of charges under the Bandwidth Provision of this contract.

Should GAGE terminate this Agreement, the Customer will be responsible to pay all charges incurred by GAGE to provide service for periods up to the end of energy flow plus all unrecovered costs caused by the Termination of the Agreement.

**25. Severability** - If any provision of this Agreement is deemed invalid or unenforceable by any future laws, rules or regulations, the remaining provisions shall remain valid, binding and in full force and effect.

**26. Survival** - The provisions of this Agreement concerning payment, limitation of liability, waivers, arbitration and waiver of class actions shall survive the termination or expiration of this Agreement.

**27. Emergency Service** – The LDC will respond to outages and emergencies. In the event of an electricity and/or natural gas outage, service interruption or another emergency, Customer should immediately call the LDC. LDC contact information is added to the Rate Summary Sheet of this Agreement.

**28. Confidentiality** – Customer agrees that for so long as this Agreement remains in effect and for a period of 2 years following Termination of this Agreement, this Agreement and all pricing provided thereunder is commercially sensitive and shall not, unless required by law, be disclosed to any third party, or any unauthorized Customer employee, without the prior written consent of GAGE.

**29. Value-Added Programs** - For customers who have opted as part of enrollment for commodity supply service with GAGE to participate in additional value-added programs such as LED Lighting and Financing programs, execution of this Contract also serves as an acknowledgement and acceptance of the Terms set forth in the specific Addendums annexed to this Agreement.

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