

MONTHLY METERED NATURAL GAS SUPPLIER SERVICE AGREEMENT

This AGREEMENT is made and entered into as of the ____ day of _____, 20____, by and between _____, corporation having offices at _____ (“Supplier”) and National Fuel Gas Distribution Corporation, a New York corporation, with offices at 6363 Main Street, Williamsville, New York, 14221 (“Company”).

DEFINITIONS APPLICABLE TO THIS AGREEMENT

Terms and conditions in this Agreement not defined below shall have their meaning utilized in the Company’s Tariff for gas service, Gas - Pa. P.U.C. No. 9.

- Control Date: Customer’s meter read date.
- Supplier: Signatory to this Agreement who, in the sole judgment of Company, has been determined creditworthy for participation in the MMNGS program.
- MMNGS: Monthly Metered Natural Gas Supplier.
- MMT Customer: A gas service customer who receives transportation service from the Company under Rate Schedule for Monthly Metered Transportation Service under Company’s tariff and receives gas supply from a MMNGS.
- MMNGS Group: The Supplier’s group of MMT Customers
- MMNGS Imbalance: Net imbalances developed by the MMNGS Group and the primary financial responsibility of the Supplier.
- Commission: Pennsylvania Public Utility Commission
- Tariff: The effective Rates, Rules and Regulations of Company, as set forth in its Pennsylvania Tariff (Gas--Pa. P.U.C. No. 9 or any superseding tariff).
- Web Site: Site on the internet world-wide web established and maintained by Company for transacting business hereunder.

GENERAL INFORMATION

WHEREAS, Supplier desires to participate in Company’s MMNGS program under the Tariff;

WHEREAS, Supplier wishes to do all things necessary to effectuate all services under Company's MMNGS program as set forth in the Tariff;

WHEREAS, Company is willing to provide such services to Supplier as are necessary and sufficient to effectuate the MMNGS program under the Tariff in accordance with all laws, rules, regulations, permits, orders and authorizations applicable to the MMNGS program, or any part thereof.

NOW THEREFORE, The parties agree as follows:

A. Designation as Supplier:

Company shall accept designation and appointment of Supplier, and identification of MMNGS Group, upon the terms and conditions contained in this Agreement.

B. Identification of MMT Customers:

MMT Customers shall be identified by the Supplier on a list provided to the Company showing the name and account number of each Customer properly enrolled. All information shall be communicated to the Company via Electronic Data Interchange (EDI), the Company's Web Site or other protocol established by the Company. Notification and execution of Customer switches, including switches from the Company to a Supplier, shall be governed by the applicable provisions of the Tariff and the rules and regulations of the Commission. All switches shall occur on the Customer's Control Date.

C. Term of Agreement:

The initial term of this Agreement shall commence on _____ for a period of 12 months and shall be renewable annually for successive 12-month terms unless cancelled by default of any terms or conditions of this Agreement or the Tariff, or by the Company or the Supplier on sixty (60) days written notice prior to the end of a term, or otherwise by mutual agreement.

D. Supplier further agrees as follows:

1. Supplier will deliver natural gas to the Company's City Gate on behalf of MMT Customers included in Supplier's MMNGS Group.
2. Supplier is bound by the terms and conditions of the transportation service classification applicable to the MMT Customers in Supplier's MMNGS Group in accordance with any changes or modifications thereof as approved by the Commission.
3. Supplier warrants that all information provided to the Company for the purpose of qualifying for Company's MMNGS program is true, timely and accurate and Supplier acknowledges that such information has been provided to the Company for the purpose of inducing the Company to provide service pursuant to the Tariff.

4. As a condition of MMNGS service, Supplier shall satisfy the credit criteria set forth in the Tariff. Supplier acknowledges that its creditworthiness may be periodically reviewed during service hereunder, and any security requirement modified as determined by the Company to accommodate changes in the Supplier's financial standing, fitness to serve or ADDQ for Supplier's MMNGS Group.

5. Supplier acknowledges that its obligations to deliver natural gas on behalf of its MMT Customers will not be abated under any circumstances, including a breach of the obligations by any MMT Customer to the Supplier, except for events of Force Majeure as specified in the Tariff or actions by the Company that prevent performance by Supplier.

6. Supplier shall comply with all applicable rules and regulations of the Commission for transacting business hereunder.

E. Company's Duties and Obligations:

1. Company shall accept Supplier's MMNGS Group, as determined according to MMNGS enrollment procedures, and shall provide all services required to effectuate MMNGS service under the Tariff.

2. Company shall bill Supplier on a monthly basis for services rendered or to be rendered.

3. Company shall comply with all applicable rules and regulations of the Commission for transacting business hereunder.

4. All other terms and conditions under the Tariff shall apply as if fully stated herein.

F. Rates and Charges:

Rates and charges for MMNGS service shall be billed to Supplier pursuant to the Tariff.

G. Incorporation by Reference:

A copy of the currently-effective form of Rate Schedule MMNGS is attached hereto and is incorporated herein. If there is any inconsistency between this Agreement and Rate Schedule MMNGS, either as presently effective or as amended, then the provisions of Rate Schedule MMNGS shall apply.

H. Notices:

All notices, invoices and other correspondence sent pursuant to this Agreement shall be addressed to the following parties:

To Company: National Fuel Gas Distribution Corporation
Transportation Services Department
6363 Main Street
Williamsville, NY 14221

To Supplier:



I. Limitation on Company's Liability:

Company shall not be liable for any error in judgment or any mistake of law or fact or any act done in good faith in the exercise of the powers and authority herein conferred or for any loss, damage, delay or failure to perform in whole or in part resulting from causes beyond Company's control, including, but not limited to, fires, strikes, insurrections, riots, embargoes, shortages in supplies, delays in transportation, or requirements of any governmental authority. Furthermore, in no event shall Company be liable for consequential, punitive, incidental, indirect or special damages in the provision of services hereunder.

J. Supplier Indemnity Obligations:

Supplier shall indemnify, save harmless and, at Company's option, defend Company from and against any and all losses, claims, demands, damages, costs (including, without limitations, reasonable attorneys' fees), expenses, liabilities, proceedings, suits, actions, restrictions, injunctions, fines, judgments, penalties and assessments which Company may suffer for, on account of, by reason of or in connection with any adverse claim of any person or persons to the gas purchased by Company under Rate Schedule MMNGS of the Tariff, regarding cashout purchases of Burner Tip Net Surplus Imbalances, and in connection with any bodily injury, including death to any person or persons (including, without limitation, MMT Customers' employees) or any damage to or destruction of any property, including, without limitation, loss of use thereof, arising out of, in any manner connected with or resulting from the goods, work or services furnished by Supplier with respect to this Agreement. The provisions of this Paragraph J shall survive the termination or expiration of this Agreement.

K. Entire Contract:

This Agreement and express incorporation sets forth the entire contract between the parties concerning the subject hereof, and supersedes all prior and contemporaneous written or oral negotiations and agreements between them concerning the subject hereof.

L. Modification of Agreement:

Any amendment to this Agreement may be made in the sole discretion of Company so long as such changes are not inconsistent with the applicable Tariff(s) and any modification of this Agreement must be in writing and signed by both parties.

M. Interpretation of Agreement:

The interpretation, construction, and performance of this Agreement shall be in accordance with the laws of the Commonwealth of Pennsylvania, without recourse to the law regarding the conflicts of law, and the parties to this Agreement hereby submit and consent to the jurisdiction of the courts of the Commonwealth of Pennsylvania (including, without limitation, the federal courts located within the Commonwealth of Pennsylvania) in any action brought to enforce (other otherwise relating to) this Agreement.

N. Drafting Presumptions:

No presumption shall operate in favor of Supplier or against Company as a result of drafting this Agreement.

O. Waiver:

No waiver by any party of any one or more defaults by the other in performance of any provisions of this Agreement shall operate or be construed as a waiver of any other default or defaults, whether of a like or different character.

P. Assignment:

Supplier shall not assign this Agreement, or any of its rights, duties or obligations hereunder without the prior written consent of the Company.

Q. Severability:

If any provision of this Agreement is determined to be invalid or unenforceable or contrary to Commission rules or law, the provision shall be deemed to be void as of the date of this Agreement and shall not be part of this Agreement and shall otherwise be severable from the remainder of this Agreement and shall not cause the invalidity or unenforceability of the remainder of this Agreement. If any provision of this Agreement does not comply with any law, ordinance or regulation of any governmental or quasi-governmental authority, now existing or hereinafter enacted, such provision shall to the extent possible be interpreted in such a manner so as to comply with such law, ordinance or regulation, or if such interpretation is not possible, it shall be deemed amended to satisfy the requirements thereof.

R. Company's Pennsylvania Gas Tariff:

Service under this Agreement is in accordance with Company's Tariff, as amended from time to time. If there is any inconsistency between this Agreement and the Tariff, either as presently in effect or as amended, then the provisions of the Tariff shall apply.

S. Applicable Laws:

Unless specified otherwise, business transactions under this Agreement shall be governed by the Pennsylvania Public Utility Code and the rules and regulations of the Commission.

T. Switching:

Unauthorized Customer switches, called "slamming," are strictly prohibited. Suppliers shall be subject to penalties under applicable laws, rules and regulations of the Commission for any confirmed slamming activities.

IN WITNESS WHEREOF, the parties, intending to be legally bound, have caused this Agreement to be signed by their duly authorized officers as of the day and year first above written.

WITNESS:

Company Representative

Carl M Carlotti
Company Representative
Title: Senior Vice President

WITNESS:

Supplier Representative

Name (printed): _____

Title: _____

