

SOUTH JERSEY GAS COMPANY SERVICES AGREEMENT

SERVICES AGREEMENT (this “Agreement”), effective _____ by and between _____ (hereinafter referred to as “Company” or “Marketer”) and South Jersey Gas Company (“SJG”), a New Jersey corporation, with offices located at 1 South Jersey Plaza, Folsom, New Jersey, 08037 collectively referred to herein as the “Parties.”

WHEREAS, the Company requests SJG to provide certain customer account and/or marketing services as identified in the attached Schedule.

WHEREAS, SJG agrees to perform the services identified on the attached Schedule on behalf of the Company; and

WHEREAS, the Company desires that SJG provide such services on its behalf to support the activities of the Company.

NOW, THEREFORE, in consideration of the mutual covenants, agreements, and undertakings herein set forth, the parties agree as follows:

1.0 SERVICES.

1.1 SJG agrees to provide the Company with certain customer account, customer contact and other services as identified in the attached Schedule (“the Services”). If the Services as defined need to be adjusted because of a legal or regulatory requirement or to comply with good business practices, then the Parties shall mutually agree as to how to reflect such adjustment.

1.2 The terms and conditions of the Schedule are incorporated into this Agreement when properly executed by SJG and the Company.

1.3 The Company may request additional services to be performed on its behalf. If SJG agrees, the Schedule will be amended to include the additional services requested and the amended Schedule will be incorporated into this Agreement in lieu of the original Schedule.

2.0 PAYMENT.

2.1 As compensation for the performance of the Services, the Company agrees to pay according to the fee schedule identified in the Schedule. If additional Services are provided, the fees for these Services will be identified in an amended Schedule. The Company consents to permit SJG to provide services to the Company hereunder.

2.2 For the Services, SJG shall invoice the Company on or before the fifteenth (15) day of the month following the month in which the Services are performed with payment due on the twenty-fifth (25) of that month.

3.0 **TERM OF AGREEMENT**

3.1 Subject to Section 3.2, the term of the Agreement shall be from the date the Parties sign the Agreement for a period of one year . This Agreement shall automatically renew for a period of twelve months unless either Party notifies the other of its decision to terminate in writing at least 90 days before the expiration date of the Agreement.

3.2 Notwithstanding Section 3.1, this Agreement shall terminate as follows:

(a) Either party may terminate this Agreement upon giving thirty days prior written notice of any breach of this Agreement by either Party.

(b) Either Party may terminate this Agreement for any reason upon giving 90 days written notice.

3.3 Any termination of this Agreement will not adversely affect any rights of the Parties arising prior to termination.

4.0 **DISPUTES AS TO BILLING.**

4.1 If either Party in good faith believes that there has been an error in any amount invoiced or any amount paid, then such Party shall notify the other Party of such alleged error and shall provide the other with sufficient records relating to the dispute so as to permit the parties to attempt to resolve the dispute. In the event of a dispute regarding an invoice, the disputing Party shall nevertheless pay the invoiced amount. If the Parties can not reach agreement, then the provisions of Section 14.0 shall govern the resolution of disputes regarding amounts invoiced.

5.0 **INDEMNIFICATION.**

5.1 SJG's duty to provide indemnification under this section 5.1 shall only be enforceable if there has been a final judicial determination that SJG was grossly negligent or that it engaged in willful misconduct in the performance of the Services. SJG shall be entitled to exercise any and all rights to appeal a judicial determination of gross negligence or willful misconduct, and the duty to indemnify the Company shall only be enforceable after SJG has exercised all available avenues of appeal.

5.2 Except to the extent caused by SJG's gross negligence or willful misconduct, the Company shall indemnify and hold harmless each of SJG and its agents, affiliates, officers, partners, employees, consultants, representatives, successors and assigns, from and against any and all damages arising out of or resulting from SJG's performance of the Services.

5.3 Upon receipt by an indemnified person of notice of a claim, action, or proceeding against it for which indemnity may be sought hereunder, the indemnified person shall promptly notify the indemnifying person. At its option, the indemnifying person may assume the defense

of such claim at its cost, or may allow the indemnified person to assume the defense of such claim. If the indemnified person assumes the defense of its claim, the indemnified person shall be entitled to reimbursement for the reasonable costs of defending such claim upon a judicial or arbitrator's determination that the indemnified person is entitled to such reimbursement in accordance with the terms of this Agreement.

6.0 INDEPENDENT CONTRACTOR.

6.1 SJG and the Company shall act solely as independent contractors, and nothing herein shall at any time be construed to create the relationship of employer and employee, agent or partner. Except as provided for in this Agreement, neither Party shall have any right or authority, and shall not attempt, to enter into any contract, commitment or agreement or incur any debt or liability, of any nature, in the name of the other.

7.0 APPLICABLE LAW.

7.1 This Agreement, and all terms and provisions contained herein, and the respective obligations of the Parties are subject to valid laws, orders, rules, and regulations of duly constituted authorities having jurisdiction over the parties. This Agreement shall be governed by and interpreted in accordance with laws of the State of New Jersey without application of the conflicts of law provisions thereof.

8.0 NOTICES.

8.1 All notices or other communications required by this Agreement shall be effective upon receipt and shall be in writing and personally delivered or mailed by registered or certified mail, as follows:

If to SJG:

South Jersey Gas Company
1 South Jersey Plaza
Folsom, New Jersey 08037
Attn: Joseph Rodio

If to Company:

or to such other address as hereafter shall be furnished as provided in this Section by either of the Parties hereto to the other.

9.0 SUCCESSORS AND ASSIGNS.

9.1 This Agreement shall be binding upon the successors and assigns of the Parties hereto; provided, however, no party may assign any part of its interests under this Agreement without the express written consent of the other Party.

10.0 WAIVER.

10.1 No waiver by either Party of any one or more defaults in the performance of any provision of this Agreement shall operate or be construed as a waiver of any future default, whether of a like or different character.

11.0 HEADINGS.

11.1 The headings contained in this Agreement are for convenience of reference only and do not qualify or affect in any way the meaning or interpretation of this Agreement.

12.0 ENTIRE AGREEMENT.

12.1 This Agreement sets forth the entire understanding and agreement between the parties relating to the subject matter hereof and supersedes and replaces any prior understanding, agreement or statement of intent, in each case, whether written or oral.

13.0 RIGHTS AND REMEDIES.

13.1 The rights and remedies granted under this Agreement shall not be exclusive but shall be in addition to all other rights and remedies available at law or in equity, except that the Parties agree that neither Party shall be liable to the other for any indirect, special, punitive, or consequential damages or lost profits as a result of a breach of any provision of this Agreement.

14.0 RESOLUTION OF DISPUTES

Negotiation

14.1 All claims, disputes and other matters in question between the Parties to this Agreement, arising out of or relating to the services or this Agreement or the breach thereof, shall be submitted in writing to the other Party with a concise statement of the question or issue in dispute, together with relevant facts and documentation. The Parties shall then use their best efforts to resolve the claim or dispute within 20 days following the submission of such claim through good faith negotiations.

Arbitration

14.2 With respect to a dispute arising out of or relating to the services if not resolved through negotiation, the matter shall be decided by binding arbitration in accordance with the Rules of the American Arbitration Association then in effect and the decision rendered by such arbitration will be final and judgment may be entered upon it in any court having jurisdiction thereof. Such arbitration will be held in Atlantic County and will be the exclusive recourse of any Party hereunder, except that in the event of any actual or threatened breach or default which could give rise to irreparable harm, the non-defaulting Party may apply to any court for injunctive or other equitable relief, pending the outcome of the arbitration.

15.0 **FORCE MAJEURE**

15.1 SJG shall not be liable for any delay in performance, or nonperformance caused by circumstances beyond SJI's reasonable control, including but not limited to acts of God, fire, accident, flood, explosion, war, hurricane, tornadoes, riots, strikes, work stoppages, government action or inaction or request of government authority.

16.0 **CONFIDENTIALITY**

16.1 SJG will provide information relative to the Company's customers which is confidential and proprietary to the customer only with prior affirmative written consent of that customer or in a manner as otherwise authorized by the New Jersey Board of Public Utilities.

16.2 While providing the Services, SJG and its employees, agents and subcontractors may obtain, directly or indirectly, privileged or confidential information proprietary to Company or its affiliates. Accordingly, SJG agrees, for itself and on behalf of its employees, agents, and subcontractors, to treat and maintain all information received by SJG as privileged and confidential, and not to disclose or cause to be disclosed to others, including, but not limited to, unauthorized personnel of SJG or any third parties, or to use such information without the specific written authorization from Company, except as may be required by law. These requirements as to confidentiality and non-disclosure do not apply to information which (a) is in the public domain, (b) is already known to or by SJG, (c) is furnished by or obtained from a third party which is under no obligation to keep the information confidential. Prior to any disclosure required by law, SJG shall notify Company of the required disclosure beforehand so that Company may seek to obtain a protective order or other satisfactory assurance of confidential treatment. Provided, however, that SJG may provide such confidential information to the Staff of the New Jersey Board of Public Utilities upon execution of an appropriate protective order or confidentiality agreement.

16.3 While receiving the Services, Company and its employees, agents and subcontractors may obtain, directly or indirectly, privileged or confidential information proprietary to SJG or its affiliates. Accordingly, Company agrees, for itself and on behalf of its employees, agents, and subcontractors, to treat and maintain all information received by Company as privileged and confidential, and not to disclose or cause to be disclosed to others, including, but not limited to, unauthorized personnel of Company or any third parties, or to use such information without the specific written authorization from SJG, except as may be required by law. These requirements as to confidentiality and non-disclosure do not apply to information which (a) is in the public domain, (b) is already known to or by Company, (c) is furnished by or obtained from a third party which is under no obligation to keep the information confidential. Prior to any disclosure required by law, Company shall notify SJG of the required disclosure beforehand so that SJG may seek to obtain a protective order or other satisfactory assurance of confidential treatment.

16.4 These confidentiality obligations shall continue after and survive completion of the Services, or expiration of this Agreement.

17.0 REPRESENTATIONS AND WARRANTIES

17.1 Each Company and SJG represent and warrant to the other that it is duly organized, validly existing and in good standing under the laws of the state of its organization and has all requisite corporate power and authority to execute and deliver this Agreement, perform its obligations hereunder and consummate the transactions contemplated hereby.

17.2 The execution and delivery of this Agreement has been duly and validly authorized by all necessary corporate action.

17.3 Upon execution and delivery of this Agreement, it will constitute a valid and binding obligation of each such Party enforceable against it in accordance with its terms except as limited by applicable bankruptcy, insolvency and similar laws.

SOUTH JERSEY GAS COMPANY

BY: _____

Name
Title

Attest

BY: _____

Name
Title:

Attest