

## Frontier Utilities Northeast, LLC

5120 Woodway Dr. • Suite 10015 • Houston, TX 77056 • 1-877-636-3450 • www.frontierutilities.com

### New York Natural Gas / Electricity Supply Agreement Residential and Small Business Terms of Service

**1. Agreement to Sell and Purchase Energy.** This is an agreement between Frontier Utilities Northeast, LLC ("Frontier") and the undersigned customer ("Customer") under which Customer shall initiate natural gas and/or electricity service and begin enrollment with Frontier (the "Agreement"). Subject to the terms and conditions of this Agreement, Frontier agrees to sell and deliver, and Customer agrees to purchase and accept the quantity of natural gas and/or electricity, as estimated by Frontier, necessary to meet Customer's requirements based upon consumption data obtained by Frontier or the delivery schedule of the Local Distribution Utility (the "LDU"). The amount of natural gas and/or electricity delivered under this Agreement is subject to change based upon data reflecting Customer's consumption obtained by Frontier or the LDU's delivery schedule. The LDU will continue to deliver the commodity supplied by Frontier.

**2. Term.** This agreement shall be binding as of the date that your enrollment or re-enrollment is accepted by us, which will not be before the expiration of your 3-day right of rescission as required under the New York Uniform Business Practices Act (UBP). Our actual supply of electricity or natural gas under this Agreement shall begin on the date that the utility deems the switch to us effective. The switch may take up to 2 billing cycles to take effect. Regardless of the actual effective date of this Agreement, you will only be charged for supply under this Agreement once we have begun the supply of electricity or natural gas. If you have chosen a Fixed-Rate plan, your initial term ("Initial Term") is the term specified in your Enrollment Consent. We will send you a renewal notice between 30 and 60 days prior to the end of the Initial Term. Your Fixed-Rate plan shall then automatically renew for successive month-to-month periods at our variable rate as described in the Pricing, Billing and Termination section below. You may cancel your variable-rate plan at any time with no early termination fee. If you have chosen a Variable-Rate plan, your term will be month-to-month and it will continue until either party terminates this Agreement as per the Pricing, Billing and Termination section below.

**3. Pricing and Billing.** Unless otherwise agreed to in writing, the price for all natural gas and/or electricity sold under this Agreement shall be the price indicated in the Customer Disclosure Statement on the first page of this Agreement. Variable Rate Products: Variable price may vary on a monthly basis to reflect the cost of electricity, including energy, capacity, settlement, ancillaries, related transmission and distribution charges and other market-related factors; plus all applicable taxes, fees, charges, costs, expenses and margins. Fixed Rate Products: If you have selected a Fixed Rate product, the price will not change as a result of changes in ICAP or UCAP, but may change for reasons allowed by law, including, without limitation, a change in charges, or new charges, imposed by your LDU, the New York Independent System Operator or its successor ("NYISO"), the New York Public Service Commission (including the New York Department of Public Service) (the "NYPSC") or other government agency.

Customer acknowledges that such charges are based on the established NYISO and other RTO tariffs and Open Access Transmission Tariffs ("OATT") that are in effect as of the date service hereunder commences. Frontier will have the right to adjust the price due to changes in the OATT rate design or market structure design, provided that such right shall be limited to reflecting the additional charges or costs to Frontier caused by changes in the OATT. Your price excludes: (a) transmission, distribution and transportation charges; (b) fees, charges and other assessments imposed by your LDU, NYISO, NYPSC or other governmental agency; and (c) federal, state and local taxes (other than state gross receipts tax). These items are in addition to your price. Customer will receive a single consolidated bill for both commodity and delivery costs from the LDU. Customer shall remit payment to the LDU. Customer will pay each invoice in full within 20 days of the invoice date or be subject to a late payment charge of 1.5% per month. Customer payments remitted in response to a consolidated bill shall be pro-rated (when so required) in accordance with procedures adopted by the New York State Department of Public Service (the "DPS").



**4. Termination.** Any or all of your account(s) that are terminated or cancelled shall be returned to the utility unless you contract with another ESCO for energy supply. It may take several billing cycles for your account(s) to be returned to the utility. You are required to pay all of the charges for the energy supplied by us until such time as the utility or other ESCO actually begins supplying the energy to your account(s). Termination of Variable-Rate Plan: You may cancel your Variable-Rate Plan Agreement without penalty, at any time, by contacting our Customer Care Department at the number provided. We may terminate the Agreement without penalty at any time, in whole or with respect to any particular account(s) covered by the Agreement, by providing you with 15 days' advance written notice of such termination. If we are terminating due to nonpayment or other breach of this Agreement, you will have 15 days to remedy the breach or nonpayment.

Termination of Fixed-Rate Plan: We may terminate your Fixed-Rate Plan Agreement, in whole or with respect to any particular account(s), for nonpayment of your energy charges or if you breach this Agreement, by providing you with 15 days' advance written notice. You will have 15 days to remedy the breach or nonpayment. If you terminate this Agreement, in whole or with respect to any particular account(s), or if we terminate this Agreement due to breach or nonpayment, you will be charged an early termination fee ("Early Termination Fee"), as liquidated damages, in the amount agreed to in your Enrollment Consent, in addition to any energy charges you may already owe. An Early Termination Fee shall become due and payable immediately upon the effective date of the termination of service to the account(s). The Early Termination Fee is not a penalty, but is intended to compensate us for the cost of buying natural gas or electricity in advance on your behalf. The Early Termination fee shall not exceed \$100 if the remaining term is 12 months or less and \$200 if the remaining term exceeds 12 months. A \$30 fee will be charged for all returned checks.

**5. Assignment.** Customer may not assign its interests in and delegate its obligations under this Agreement without the express written consent of Frontier. Frontier may sell, transfer, pledge, or assign the accounts receivable, revenues, or proceeds hereof, in connection with any financing agreement, purchase of accounts receivables program or billing services agreement, and may assign this Agreement and the rights and obligations there under, to another energy supplier, energy services company or other entity as authorized by the DPS.

**6. Information Release Authorization.** Customer authorizes Frontier to obtain and review information regarding Customer's credit history from credit reporting agencies and the following information from the LDU: consumption history; billing determinants; utility account number; credit information; public assistance status; existence of medical emergencies, status as to whether Customer has a medical emergency, is human needs, elderly, blind or disabled and data applicable to cold weather periods under PSL § 32 (3); and information pertaining to PSL § 33, tax status and eligibility for economic development or other incentives. This information may be used by Frontier to determine whether it will commence and/or continue to provide energy supply service to Customer and will not be disclosed to a third party unless required by law. Customer's execution of this Agreement shall constitute authorization for the release of this information to Frontier. This authorization will remain in effect during the Initial Term and any Renewal Term. Customer may rescind this authorization at any time by providing written notice thereof to Frontier or by calling Frontier at 1-877-636-3450. Frontier reserves the right to cancel this Agreement in the event Customer rescinds the authorization.

**7. Consumer Protections.** The services provided by Frontier to Customer are governed by the terms and conditions of this Agreement and HEFPA. Frontier will provide at least 15 days' notice prior to the cancellation of service to Customer. In the event of non-payment of any charges owed to Frontier, Customer may be subject to termination of commodity service and the suspension of distribution service under procedures approved by the DPS. Customer may obtain additional information by contacting Frontier at 1-877-636-3450 or the DPS at 1-800-342-3377, or by writing to the DPS at: New York State Department of Public Service, Office of Consumer Services, Three Empire State Plaza, Albany, New York 12223, or through its website at: <http://www.dps.ny.gov>. You may also contact the Department for inquiries regarding the competitive retail energy market at 1-888-697-7728.



**8. Cancellation.** Customer may rescind this Agreement within 3 business days after the signing or receipt of this Agreement, whichever comes first, by contacting Frontier at 1-877-636-3450 or in writing. Customer is liable for all Frontier charges until Customer returns to the LDU or goes to another supplier. A final bill will be rendered within twenty (20) days after the final scheduled meter reading or if access is unavailable, an estimate of consumption will be used in the final bill, which will be trued-up subsequent to the final meter reading.

**9. Agency.** Customer hereby designates Frontier as agent to; (a) arrange and administer contracts and service agreements between Customer and Frontier and those entities including the New York Independent System Operator ("NYISO") engaged in the generation, transmission and delivery of Customer natural gas and/or electricity supplies; and (b) nominate and schedule with the appropriate entities including the LDU for the delivery of natural gas and/or electricity to the Sales Point and the Customer's end-use premises. Frontier as agent for the Customer will schedule the delivery of adequate supplies of natural gas and/or electricity that meet the Customer's requirements as established by the LDU and in response to information provided by the LDU. The Sales Points for the natural gas and/or electricity will be a point at the NYISO Frontier 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.

**10. Title.** Customer and Frontier agree that title to, control of, and risk of loss to the natural gas and/or electricity supplied by Frontier under this Agreement will transfer from Frontier to Customer at the Sales Point(s). Frontier will indemnify and hold harmless Customer from all taxes, royalties, fees or other charges incurred before title passes with respect to the natural gas and/or electricity provided hereunder.

**11. Warranty.** This Agreement, including applicable attachments, constitutes the entire Agreement between Customer and Frontier. Frontier makes no representations or warranties other than those expressly set forth in this Agreement, and Frontier expressly disclaims all other warranties, express or implied, including merchantability and fitness for a particular use.

**12. Force Majeure.** Frontier will make commercially reasonable efforts to provide natural gas and/or electricity hereunder but Frontier does not guarantee a continuous supply of natural gas and/or electricity to Customer. Certain causes and events out of the control of Frontier ("Force Majeure Events") may result in interruptions in service. Frontier will not be liable for any such interruptions caused by a Force Majeure Event, and Frontier 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, acts of any governmental authority, accidents, strikes, labor disputes or problems, required maintenance work, inability to access the local distribution utility system, non-performance by the LDU (including, but not limited to, a facility outage on its natural gas and/or electricity distribution lines), changes in laws, rules, or regulations of any governmental authority or any other cause beyond Frontier's control.

**13. Liability.** The remedy in any claim or suit by Customer against Frontier will be solely limited to direct actual damages. By entering into this Agreement, Customer waives any right to any other remedy in law or equity. In no event will either Frontier 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.

**14. Contact Information.** Customer may contact Frontier's Customer Service Center at 1-877-636-3450, Monday through Friday 9:00 AM - 6:00 PM EST (contact center hours subject to change). Customer may write to Frontier at: Frontier Utilities, 5120 Woodway Dr. Suite 10015, Houston, TX 77056.

**15. Dispute Resolution.** In the event of a billing dispute or a disagreement involving Frontier's service hereunder, the parties will use their best efforts to resolve the dispute. Customer should contact Frontier by telephone or in writing as provided above. The dispute or complaint relating to a residential customer may be submitted by either party at any time to the DPS pursuant to its Complaint Handling Procedures ("Procedures") or calling the DPS at 1-800-



342-3377. Customer must pay the bill in full, except for the specific disputed amount, during the pendency of the dispute, and such payment shall be refunded if warranted by the decision of DPS.

**16. Choice of Laws.** Venue for any lawsuit brought to enforce any term or condition of this Agreement or to construe the terms hereof shall lie exclusively in the State of New York. 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.

**17. 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 Frontier's net income, shall be paid by Customer, and Customer agrees to indemnify Frontier and hold Frontier harmless from and against any and all such taxes. This Agreement is subject to present and future legislation, orders, rules, regulations or decisions of a duly constituted governmental authority having jurisdiction over this Agreement or the services to be provided hereunder.

**18. Regulatory Changes.** If at some future date there is a change in any law, rule, regulation, tariff, or regulatory structure ("Regulatory Change") which impacts any term, condition or provision of this Agreement including, but not limited to price, Frontier shall have the right to modify this Agreement to reflect such Regulatory Change by providing 30 days' written notice of such modification to the Customer.

**19. Emergency Service.** The LDU will respond to leaks and emergencies. In the event of a natural gas leak, electricity service interruption or other emergency, Customer should immediately call their LDU:

ConEd: 1-800-75-CONED (1-800-752-6633)

Orange & Rockland: 1-877-434-4100

NYSEG: 1-800-572-1131

National Grid: 1-800-867-5222

Rochester Gas & Electric: 1-800-743-1701

Central Hudson Gas & Electric: 1-800-527-2714

Customer should then call Frontier at 1-877-636-3450.

**20. Parties Bound.** This Agreement is binding upon the parties hereto and their respective successors and legal assigns.

**IN WITNESS WHEREOF,** Customer and Frontier have caused this Agreement to be executed as of the date first set forth above.

**In the case of telephonic or electronic enrollment such execution shall be deemed provided pursuant to the methods authorized under the New York Uniform Business Practices.**

