

**COMPETITIVE ELECTRIC SUPPLIER SERVICE AGREEMENT FOR
BILLING SERVICES AND FOR THE PURCHASE OF ACCOUNTS RECEIVABLE**

NATIONAL GRID

THIS AGREEMENT ("Agreement") effective the ____ day of _____, 20____ is by and between Massachusetts Electric Company d/b/a National Grid, a Massachusetts corporation with a principal place of business at 40 Sylvan Road, Waltham, MA, Nantucket Electric Company d/b/a National Grid, a Massachusetts corporation with a principal place of business at 40 Sylvan Road, Waltham, MA (Massachusetts Electric Company and Nantucket Electric Company collectively referred to in this Agreement as "Company"), and _____ [specify Competitive Supplier, full legal name] ("Competitive Supplier"), a _____ [specify corporation / limited liability company / partnership], organized and existing under the laws of the State of _____ [specify state of organization] with its principal place of business at _____ [specify legal mailing address]. The Company and the Competitive Supplier are also individually referred to herein as a "Party" or collectively as the "Parties."

BASIC UNDERSTANDINGS

Under the Massachusetts Electric Industry Restructuring Act of 1997, the Company's Terms and Conditions for Competitive Suppliers approved by the Department of Public Utilities ("MDPU") as in effect and revised from time to time (referred to herein as the "Terms and Conditions"), and applicable regulations of the MDPU, Company has the authority and obligation to perform services for competitive suppliers of electricity. The Terms and Conditions, in Section 3C.5, require the Competitive Supplier to enter into a service contract with the Company prior to the initiation of Generation Service, as defined therein, for the provision of these services.

Accordingly, Company agrees to provide services to Competitive Supplier in accordance with the Terms and Conditions, which are fully incorporated herein by reference, and the terms of this Agreement.

This form of Agreement has been developed for use between Company and Competitive Suppliers, and may not be waived, altered, amended, or modified, except as provided herein. Attachments A through E, attached hereto and incorporated herein by reference, include additional terms which are a part of this Agreement.

In consideration of the covenants, promises and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties, intending to be legally bound, agree as follows

ARTICLE 1

DEFINITIONS AND RULES OF INTERPRETATION

- 1.1 **Definitions.** The following terms shall have the meanings set forth in this Article 1 or elsewhere in the provisions of this Agreement referred, to below:

Account(s) Receivable means with respect to any eligible Customer, any Competitive Supplier's Generation Service revenue and associated charges determined by Company under Article 2 and Article 3 of this Agreement based upon the applicable Billing Price Determinants in effect (including, but not limited to, any state sales tax and any other applicable state or federal taxes and/or surcharges) that are billed under this Agreement that represent an account of such Customer.

Accounts Receivable Purchase Price. means in respect of any Account Receivable purchased hereunder, the Account Receivable less the following amounts as applicable:
(1) Standard Complete Billing Percentage, as defined in Section 8B(2)(b) of the Company's Terms and Conditions; and (2) Competitive Supplier Charges.

ACH means any automated clearing house transaction which is part of the Electronic Funds Transfer Act and Federal Reserve Board's Fedwire system, consisting of a collection of regional electronic interbank networks used to process transactions electronically.

Additional Assurance Amount means the amount due and owing by the Competitive Supplier under this Agreement and the Terms and Conditions as of the date of the Company's issuance of a demand for the same.

Affiliate(s) means with respect to a Person, any other Person that, directly or indirectly, controls, is controlled by or is under common control with such Person or is a director or officer of such Person. For purposes of this definition the term "control" (including the terms "controlling," "controlled by" and "under common control with") of a Person means the possession, direct or indirect, of the power to vote 10% or more of the Voting Stock of such Person or to direct or cause the direction of the management and policies of such Person, whether through the ownership of Voting Stock, by contract or otherwise.

Agreement shall have the meaning provided in the preamble.

AR Date shall have the meaning provided in Attachment E.

Basic Service means the service provided by the Distribution Company to a Customer who is not receiving Generation Service from a Competitive Supplier, in accordance with the provisions set forth in the Company's Basic Service tariff on file with the MDPU.

Billed Amounts means any and all amounts billed by Company to eligible Customers, including Accounts Receivable.

Billing Cycle means the meter reading schedule published by Company.

Billing Date means with respect to any Account Receivable, the date on which Company's billing system calculates such Account Receivable.

Billing Price Determinant(s) means the Flat Rate price amount and such other information submitted by Competitive Supplier, more fully described in Attachment A, attached hereto and made a part hereof, required to calculate the Accounts Receivable Purchase Price for the Generation Service supplied by Competitive Supplier and billed by Company to eligible Customers under this Agreement.

Billing Services means the billing services provided to Competitive Supplier by Company under Article 2.

Business Day means any day that is not a Sunday, Federal holiday or other day on which commercial banking institutions in Massachusetts are authorized or obligated by law or executive order to be closed.

Collateral shall have the meaning provided in Section 3.5.

Company shall have the meaning provided in the preamble.

Competitive Supplier means, as the context indicates, (i) Company's counterparty to this Agreement, provided that in any case Company's counterparty to this Agreement shall satisfy subsection (ii) of this definition, or (ii) any entity licensed by the MDPU to sell electricity to retail Customers in Massachusetts, except it shall not include: (1) a Distribution Company providing Basic Service to its distribution Customers, and (2) a municipal light department acting as a Distribution Company.

Competitive Supplier Charges means an amount that includes the costs, fees and expenses that should properly be borne by Competitive Supplier in accordance with the requirements of this Agreement, the Terms and Conditions, or the EBT Working Group Report, as each may be amended or modified from time to time, and approved by the MDPU.

Contract shall have the meaning provided in Section 5.5.

Creditworthy means a credit rating of "BBB-" or better (as assigned by Standard & Poor's Financial Services LLC ("S&P") and its successors, or "Baa3" or better (as assigned by Moody's Investors Service, Inc. and its successors) ("Moody's").

Customer means any person, partnership, corporation or any other entity, whether public or private, who obtains Distribution Service at a Customer Delivery Point and who is a Customer of record of the Company.

Customer Delivery Point means the Company's meter or a point designated by the Company located on the Customer's premises.

Customer Payment means the Customer's payment for Generation Service and any and all Company Tariff charges and surcharges for energy services provided by Company inclusive of applicable sales tax imposed thereon.

Default means any event that, but for the passage of time or the giving of notice, or both, would constitute an Event of Default.

Distribution Company means a company engaged in the distribution of electricity or owning, operating, or controlling distribution facilities, provided, however, a Distribution Company shall not include any entity which owns or operates plant or equipment used to produce electricity, steam, and chilled water, or any affiliate engaged solely in the provision of such electricity, steam and chilled water, where the electricity produced by such entity or its affiliate is primarily for the benefit of hospitals and non-profit educational institutions, and where such plant or equipment was in operation prior to January 1, 1986.

Distribution Service means the delivery of electricity to Customers by the Distribution Company

Document(s) means this Agreement, Financing Statement(s), and all other documents, instruments and/or statements related hereto and thereto.

EBT means electronic business transactions as published in the EBT Working Group Report on file with the MDPU.

EBT Standards shall have the meaning provided in Section 7.3.

EBT Working Group Report or Report means the most recently revised version of the report initially submitted by the Massachusetts Electronic Business Transaction Working Group on October 9, 1997, as updated and filed at the MDPU from time to time.

Effective Date shall have the meaning provided in Section 8.1.

EFT means electronic funds transfer provided under the Electronic Funds Transfer Act and Federal Reserve Board Regulation E which is a transfer of funds other than a transaction originated by check, draft, or similar paper instrument, that is initiated electronically to order, instruct, or authorize a financial institution to debit or credit an account.

Event of Default shall have the meaning provided in Section 9.2.

FERC means the Federal Energy Regulatory Commission or any successor agency thereto.

Financing Statements means any and all financing statements and amendments thereto, required in connection with Competitive Supplier's grant of security interest in the Collateral under Section 3.5 to be filed in accordance with requirements of the UCC.

Flat Rate means the Rate Factor price per kWh as submitted by Competitive Supplier in Attachment A.

Generation Service means the sale of electricity to a Customer by a Competitive Supplier, including capacity and ancillary services such as the provision of reserves and all other services relating to generation required by ISO-NE and retail offerings that utilize renewable energy certificates or represent alternative compliance payments that are bundled with generation, provided that such products can be billed using the Standard Complete Billing Service platform.

ISO-NE means the Independent System Operator of the New England bulk power

system. **Law** shall have the meaning provided in Section 5.5.

MDPU means the Massachusetts Department of Public Utilities.

NEPOOL means the New England Power Pool and its successors.

Person means an individual, partnership, corporation, business trust, joint stock company, trust, unincorporated association, joint venture, limited liability company or other entity, or a government or any political subdivision or agency thereof.

Program means the Purchase of Accounts Receivable Program approved by the MDPU as amended and updated from time to time by the MDPU.

Qualified Bank means a major US commercial bank or the US branch office of a major foreign commercial bank, in either case, whose senior unsecured debt obligations have been rated at least (i) "A-" by S & P or "A3" by Moody's, if such entity is rated by both S&P and Moody's or (ii) "A-" by S&P or "A3" by

Moody's, if such entity is rated by either S&P or Moody's but not both, provided that such bank shall have assets totaling not less than USD ten billion (\$10,000,000,000).

Representatives means the Subsidiaries, Affiliates, directors, officers, employees, agents, auditors, attorneys, consultants or advisors by and on behalf of the Parties.

Standard Complete Billing Services shall have the meaning provided in Article 2. **Standard**

Passthrough Billing Services shall have the meaning provided in Article 2.

Submission Date means the date Company receives initial or revised Billing Price Determinants from Competitive Supplier.

Subsidiary means with respect to any Person, corporation, partnership, joint venture, limited liability company, trust or estate of which (or in which) more than 50% of (a) the Voting Stock, (b) the interest in the capital or profits of such limited liability company, partnership or joint venture, or (c) the beneficial interest in such trust is, in each case, at the time directly or indirectly owned or controlled by such Person, by such Person and one or more of its other Subsidiaries, or by one or more of such Person's other Subsidiaries.

Term shall have the meaning provided in Article 8.

Terms and Conditions means the Terms and Conditions for Competitive Suppliers, as approved by the MDPU from time to time, as more fully described in the "Basic Understandings" Section of this Agreement.

Third Party Financing Statements shall have the meaning provided in Section 6.4.

UCC means the Uniform Commercial Code as in effect in the jurisdiction under the laws of which the Competitive Supplier is a "registered organization," as such term is defined in the UCC.

Unbilled Accounts Receivable means the amount of Competitive Supplier's Generation Service revenue and associated charges to be determined by Company under Article 2 of this Agreement based upon the applicable Billing Price Determinants in effect (including, but not limited to, any applicable state or federal taxes and/or surcharges) for Generation Service which has been rendered to Customers but which remains unbilled until such time as such receivables are billed and purchased by Company under the terms of this Agreement.

Voting Stock means capital stock issued by a corporation, or equivalent interests in any other Person, the holders of which are ordinarily, in the absence of contingencies, entitled to vote for the election of directors (or persons performing similar functions) of such Person, even if the right to vote has been suspended by the happening of such a contingency.

1.2 **Rules of Interpretation.**

- (a) A reference to any document or agreement shall include such document or agreement as amended, modified or supplemented from time to time in accordance with its terms and the terms of this Agreement.
- (b) The singular includes the plural and the plural includes the singular.
- (c) A reference to any law includes any amendment or modification to such law.
- (d) A reference to any Person includes its permitted successors and permitted assigns.
- (e) Accounting terms not otherwise defined herein have the meanings assigned to them by GAAP applied on a consistent basis by the accounting entity to which they refer.

- (f) The words "include," "includes" and "including" are not limiting.
- (g) Reference to a particular "§" or "section" refers to that section of this Agreement unless otherwise indicated.
- (h) The words "herein," "hereof," "hereunder" and words of like import shall refer to this Agreement as a whole and not to any particular section or subdivision of this Agreement unless otherwise indicated.
- (i) Any capitalized terms used in this Agreement and not defined herein shall have the meaning given to it in the Terms and Conditions or as stated in the MDPU regulations.

ARTICLE 2

BILLING

2.1 Billing Services. Company shall offer two billing services to Competitive Supplier:

(a) Standard Complete Billing Service; and (b) Standard Passthrough Billing Service. All measured billing determinants will be based on Company-owned metering, except as otherwise agreed to in a subsequent agreement.

(a) Standard Complete Billing Services

In accordance with the provision of the Standard Complete Billing Service Option, Company shall issue a single bill for electric service. Company shall input and use the rates and pricing options supplied by Competitive Supplier to calculate the Competitive Supplier portion of Customer bills, and integrate this billing with Company's billing in a single mailing to the Customer.

Company shall provide Competitive Supplier with Customer usage and billing information, in accordance with the EBT Standards. Company shall send a payment/adjustment transaction to the Competitive Supplier, in accordance with the rules and procedures set forth in the EBT Working Group Report.

Competitive Supplier rates and pricing options must conform to the rate structure in use by Company for each specific rate class Service and be supported by the meters in place. Changes in the rate levels of Competitive Supplier charges to be billed shall be prospective only and shall be implemented for the next billed reading, provided that: (i) Competitive Supplier notifies Company of the rate changes in accordance with Subsection 2 below; (ii) the notification includes the old and new rates, pricing options, and effective date; (iii) upon Company's request, Competitive Supplier provides a sample bill calculation of a 500 kWh Customer or another sample Customer if it better fits the rate structure; and (iv) Competitive Supplier consents to the implementation of the new rate once Company has tested its billing processes.

1. Billing Statement Contents. During the Term, Company shall prepare and render bills that include amounts due from Customers for Competitive Supplier Generation Service. The single bill will include Competitive Supplier's toll free telephone number for Customer inquiries. The Company shall not be required to include inserts containing Competitive Supplier specific information except as otherwise required.

Company shall calculate the Accounts Receivable, based upon the Billing Price Determinants in effect, and include on Company bills to eligible Customers such calculated amount along with any and all Company Tariff charges and surcharges, if applicable, for services provided by Company in connection with Competitive Supplier's supply of the Generation Service to Customers. Company charges and any applicable surcharges in connection with the Customer's Generation Service shall be separately identified on the Company bills prepared under this Agreement except for surcharges that may be included by Competitive Supplier as a component of the Billing Price Determinants provided to Company under this Agreement.

2. Submission of Initial Billing Price Determinants. If Competitive Supplier elects to utilize the Standard Complete Billing Services from the Company, Competitive Supplier shall submit its applicable initial Billing Price Determinants prior to Company's performance of any Billing Services under this Agreement. Specifically, Competitive Suppliers electing to utilize the Standard Complete Billing Services from the Company shall furnish to Company a complete schedule of Competitive Supplier's relevant rates and rate pricing options for Generation Service in written form or in an electronic format reasonably acceptable to Company at Company's option, no less than ten (10) business days prior to initial Customer enrollment for any such rate or prior to a change in Competitive Supplier's existing rate or five (5) business days prior to a change in rate pricing options.
 3. Calculation of Accounts Receivable. Based on the applicable Billing Price Determinants in effect under this Agreement and on available metering data or estimated usage data, Company, applying its standard billing methods, will determine the Accounts Receivable under Article 2, and include such amounts on Company bills issued to Customers. Company's standard billing methods include, but shall not be limited to a proration of Flat Rate based Billing Price Determinants
- (b) Standard Passthrough Billing Service.
In accordance with the provision of the Standard Passthrough Billing Service Option, Competitive Supplier agrees to separately bill Customers for the cost of Generation Service provided by the Competitive Supplier and the collection of amounts due to the Competitive Supplier from the Customer. Company agrees to provide Competitive Supplier with Customer usage information, in accordance with the EBT Standards.
- (c) Transaction Processing.
Customer transactions will be processed in accordance with the EBT Standards. These transactions include, but are not limited to, account administration, reporting of Customer usage and billing, and reporting of Customer Payments and adjustments. Any changes in these standard transactions will be in accordance with the EBT Standards.
- (d) Conditions of Billing
Customers that contact Company concerning the billed amount for Competitive Supplier Generation Service or any other Competitive Supplier issue will be referred to Competitive Supplier's customer service number identified in Attachment C. Company will not undertake bill investigations, Customer inquiries concerning Competitive Supplier charges, collection activities for Customers billed under the Standard Passthrough Billing Service Option, or the settlement of billing disputes on behalf of Competitive Supplier for Customers billed under either option. For both Standard Passthrough Billing Service and Standard Complete Billing Service, Competitive Supplier shall be responsible for the reporting and payment of all sales taxes assessed upon Generation Service.
- (e) Billing Errors.
If either Party finds a billing error or other miscalculation on a bill or in the usage determinants used as the basis for either the Company or the Competitive Supplier's bill calculation, the Party shall within sixty (60) days from the date of the Customers' statement containing the error, notify the other Party in writing or electronically and explain the nature of the error. In the event of an error by the Company, the Company shall either: (1) rebill the affected Customer reflecting an appropriate adjustment in the Customer's account; or (2) make an appropriate timely adjustment on a subsequent bill sent to Customer. In the event of an error by the Competitive Supplier, the Company will, upon Competitive Supplier's request, and as is reasonably practicable, either: (1) rebill the affected Customer reflecting an appropriate adjustment in the Customer's account; or (2) make an appropriate timely adjustment on a subsequent bill sent to Customer. If neither of the requested options is determined by the Company to be reasonably practicable, or if the Competitive Supplier affirmatively chooses, the Competitive Supplier may submit a rate pricing option correction as provided by the EBT Standards. Competitive Supplier will be responsible to pay any fees, as filed with and approved by the MDPU, for any rebilling and/or adjustment caused by Competitive Supplier error. When either Party reasonably believes that an error related to billing activity may have occurred, either Party may request the production of documents required to verify the accuracy of such billing, which the other Party will provide within ten (10) Business Days. Notwithstanding the forgoing, the Parties acknowledge that the Company may send

estimated bills to Customers in accordance with MDPU regulations, and such estimated bills shall not be considered billing errors.

2.2 Sales Tax.

The sales tax rates applied to Competitive Supplier portion of Billed Amounts hereunder shall be based solely upon the sales tax rates that would have otherwise been charged to the same Customer if the Generation Service had been provided by Company.

2.3 Load Estimating and Reporting.

Company shall determine the Competitive Supplier's hourly loads and report such to the ISO-NE in accordance with the Terms and Conditions. In addition, upon Competitive Supplier's written request the Company shall provide Competitive Supplier with the following reports: (1) daily report of Competitive Supplier's aggregate hourly loads; and (2) monthly reconciliation of Competitive Supplier's aggregated hourly loads (completed once Company has read Customer's meters). Company will provide these reports to Competitive Supplier in a format designated by the Company and reasonably acceptable to Competitive Supplier. Upon Competitive Supplier's request, the Company shall provide the methodology used to calculate transmission and distribution line losses and unaccounted for energy.

ARTICLE 3

PURCHASE AND MANAGEMENT OF ACCOUNTS RECEIVABLE

3.1 General.

Pursuant to the terms of this Agreement, to the extent that the Competitive Supplier selects the Standard Complete Billing Service for either all or a portion of their customer accounts in a class, Competitive Supplier agrees to sell and Company agrees to purchase each existing and future Account Receivable for such Customers on Standard Complete Billing Service as of the Billing Date in respect of such Account Receivable, and, in consideration of such purchase, Competitive Supplier grants to Company a security interest in the Collateral under this Article 3. Pursuant to Section 8B(3)(b) of the Terms and Conditions, the Company's methodology for purchasing the outstanding existing Accounts Receivable of a Competitive Supplier that selects the Standard Complete Billing Service is presented in Attachment E. As of the Billing Date, title to such Account Receivable shall pass to Company and Competitive Supplier shall have no rights in or to such Account Receivable, and shall not seek to collect in any manner such amount from any Customer. Any Accounts Receivable, or portion thereof, that are billed by Company under this Agreement and for which payment is received by Competitive Supplier from Customers shall be held by Competitive Supplier in trust as the property of Company and shall be remitted in full to Company immediately upon receipt, and in any event within five (5) Business Days of receipt or discovery by the Competitive Supplier, without any deduction or setoff. Company shall have the right to endorse the name of Competitive Supplier on any and all remittances by Customers received by Company that are payable to Competitive Supplier, and the right to collect the same from Customers. In addition, Competitive Supplier assigns to Company any and all payments received from state, federal or other agencies associated with the Accounts Receivable including but not limited to payments for heating assistance.

3.2 RESERVED.

3.3 Payment by Company.

Company shall remit to Competitive Supplier the Accounts Receivable Purchase Price on a timetable consistent with the average payment period of the relevant Customer Class, pursuant to Section 8B(2) of the Terms and Conditions. The Company shall send a "payment adjustment" transaction to each Competitive Supplier to notify the Competitive Supplier the amount at which the Company will purchase the Competitive Supplier's Accounts Receivable. To the extent that for operational reasons or system change requirements,

Company alters the timetable for the average payment period applicable for the relevant Customer Class or makes other system-wide or operational changes, Company reserves the right to accelerate the payment procedure under the Agreement. In no event will a change to the procedure be undertaken without MDPU approval to the extent the change would hamper Company's compliance with the Section 8B(2) of the Terms and Conditions. The amount at which the Company will purchase the Competitive Supplier's Accounts Receivable will be in accordance with Section 8B(2)(b) of the Terms and Conditions. At the time the Competitive Suppliers' Accounts Receivables are purchased, the Company will reclassify the Accounts Receivables from Competitive Supplier's Accounts Receivables to a Company accounts receivable. Payment to Competitive Supplier shall, at Company's option, be either by (a) ACH or (b) EFT.

3.4 Competitive Supplier Statements/Reports.

Company will provide Competitive Supplier with all necessary statements/reports through EDI transactions.

3.5 Security Interest and Other Interests.

As collateral for all obligations now existing or hereafter arising from Competitive Supplier to Company, Competitive Supplier hereby grants to Company a first priority perfected security interest in all the following property of Competitive Supplier, wherever located, whether now owned, hereafter acquired, or created, and all proceeds and products thereof (the "Collateral"):

- (a) All Accounts Receivable purchased by Company under this Agreement; and
- (b) All Unbilled Accounts Receivable for service to be purchased by Company under this Agreement.

To the extent that the Terms and Conditions in Section 8B(4) provide that a Competitive Supplier must be authorized by the Company to place a security interest on the accounts receivable from the Company to the Competitive Supplier associated with the purchase by Company of the Competitive Supplier's Accounts Receivable, the Parties acknowledge and agree that the following provision fully complies with the requirements of Section 8B(4) in the Terms and Conditions:

The Company hereby grants to Competitive Supplier a security interest in the accounts receivable from the Company to the Competitive Supplier associated with the purchase by the Company of the Competitive Supplier's accounts receivable. Company and Competitive Supplier acknowledge and agree that the security interest referenced in the foregoing language is limited to the Competitive Supplier's right to receive payment from Company under the terms of this Agreement and that no further instruments are required to effectuate Competitive Supplier's security interest in its right to receive payment under this Agreement. While Competitive Supplier is authorized to assign its right to receive payment under this Agreement to a third party by providing Company with appropriate payment instructions, Competitive Supplier is explicitly not authorized to file any other Documents, including but not limited to any financing statements or liens, in order to effectuate the granted security interest.

3.6 Netting.

The parties hereby agree that they may discharge mutual debts and payment obligations due and owing to each other under this Agreement through netting, in which case all amounts owed by each Party to the other party may be netted so that only the excess amount remaining due shall be paid by the Party who owes it. If no mutual debts or payment obligations exist and only one Party owes a debt or obligation to the other during the monthly billing period, such Party shall pay such sum in full when due.

3.7 Financial Assurance.

In connection with the receipt of Standard Complete Billing Services as defined in Section 2.1 (a) of this Agreement, if at any time during the Term of this Agreement, Competitive Supplier, or Competitive Supplier's Guarantor, if applicable, is not Creditworthy, the Competitive Supplier shall provide credit support to the

Company in an amount equal to the Additional Assurance Amount within three (3) Business Days after the Company's request. Such credit support shall be: (i) a letter of credit issued by a Qualified Bank in a form acceptable to the Company, which will allow the Company to draw on the letter of credit up to the full amount of the Additional Assurance Amount, or (ii) such other credit support that is reasonably acceptable to the Company, which may include a parent guarantee from a Creditworthy parent or a deposit.

ARTICLE 4

DISCONTINUANCE OF DELIVERY AND GENERATION SERVICES

4.1 Non-Payment and Discontinuance of Customer Service.

Company shall be authorized to disconnect its Tariff delivery service and Competitive Supplier's Generation Service to Customers when (i) the Customer fails to make full payment of all amounts due on the consolidated bill issued pursuant to Article 2; and (ii) Company has purchased the Competitive Supplier's Account(s) Receivable, subject to MDPU rules and regulations regarding termination of service and the Company's Terms and Conditions for Distribution Service.

ARTICLE 5

REPRESENTATIONS AND WARRANTIES

5.1 Supplier's Rights in Collateral.

Competitive Supplier warrants that it has the rights in, or the power to transfer the Collateral to Company.

5.2 No Liens.

Competitive Supplier warrants that its title in the Collateral is and will remain free from any and all liens, claims, encumbrances, security interests and restrictions on transfer or pledge and are not and will not be subject to any other valid or existing billing, collection, or financing instrument, and have not been billed and, and that no Collateral will be assigned, financed, sold, pledged, hypothecated, or otherwise encumbered, except to Company.

5.3 Prices.

Competitive Supplier warrants that the prices charged to Customers are in accordance with Competitive Supplier's agreements with these Customers.

5.3.1 Company acknowledges its obligation to pay Competitive Supplier in accordance with the terms of this Agreement, the Terms and Conditions, and the Program.

5.4 Entity Information.

5.4.1. **Competitive Supplier.** Competitive Supplier warrants that its legal name and state of organization is as set forth in the preamble to this Agreement and Competitive Supplier (a) is a [specify state of organization] [specify corporation /limited liability company /partnership], duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization, (b) is duly qualified in Massachusetts and each other jurisdiction and in good standing as a foreign [specify corporation / limited liability company / partnership] in each other jurisdiction in which it owns or leases property or in which the conduct of its business requires it to so qualify or be licensed, and (c) has all requisite [specify, corporation / limited liability company / partnership] power and authority (including, without limitation, all governmental licenses, permits

and other approvals) to own or lease and operate its properties and to carry on its business as now conducted. If Competitive Supplier is a non-Massachusetts entity, Competitive Supplier is a registered organization as defined in Section 9-102 of the UCC in its state of organization and this applies only in the case of a non-Massachusetts entity qualified to do business and in good standing in the State of Massachusetts.

5.4.2 **Company.** Company warrants that its legal name and state of organization are as set forth in the preamble of this Agreement and that Company (a) is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization, (b) is duly qualified in Massachusetts and each other jurisdiction and in good standing as a foreign corporation in each other jurisdiction in which it owns or leases property or in which the conduct of its business requires it to so qualify or be licensed, and (c) has all requisite power and authority (including, without limitation, all governmental licenses, permits and other approvals) to own or lease and operate its properties and to carry on its business as now conducted

5.5 **Corporate Power, Authorization and Non-Contravention.**

The execution, delivery and performance by the Parties of this Agreement and each Document to which they are or are to be a party, and the consummation of the transactions contemplated hereby and thereby, are within the respective Party's corporate powers, have been duly authorized by all necessary corporate/organizational action(s), and do not (a) contravene Party's governance documents, (b) violate any law, rule, regulation, order, writ, judgment, injunction, decree, determination or award (each a "Law"), (c) conflict with or result in the breach of, or constitute a default under, any contract, loan agreement, indenture, mortgage, deed of trust, lease or other instrument, (each a "Contract") binding on or affecting the Parties, or their respective Subsidiaries, or any of their properties, or (d) result in or require the creation or imposition of any lien upon or with respect to any of the Collateral other than as provided under this Agreement.

5.6 **No Breach of Contract.**

Neither Party nor any of its respective Subsidiaries are in violation or breach of any Contract or Law, the violation or breach of which is reasonably likely to have a material adverse effect on its ability to perform under this Agreement.

5.7 **Third Party Approvals.**

No authorization, consent or approval, license, exemption or filing or registration with any court or other action by, and no notice to or filing with any governmental authority or regulatory body or any other third party is required for the due execution, delivery, recordation, filing or performance by either Party of this Agreement or any other Document to which either is a party, or for the consummation of the other transactions contemplated hereby.

5.8 **Enforceable Obligations.**

This Agreement has been, and each other Document when delivered hereunder will have been, duly executed and delivered by the Parties except as otherwise provided in this Agreement. This Agreement is, and each other Document to which either Party is a party when delivered hereunder will be, the legal, valid and binding obligation of the respective Party, enforceable against the respective Party in accordance with its respective terms.

5.9 **No Litigation.**

There is no action, suit, investigation, litigation or proceeding affecting either Party pending or threatened before any court, governmental agency or arbitrator that purports to affect the legality, validity or enforceability of this Agreement, any Document or the consummation of the transactions contemplated thereby or by this Agreement.

5.10 **No Tax Lien.**

Competitive Supplier warrants that Collateral is free of all tax liens claims and/or encumbrances and that Competitive Supplier will pay and remit on a timely basis all applicable state and federal tax levied or assessed upon the Accounts Receivable or the Collateral. 5.11 **ISO-NE Membership**. Competitive Supplier warrants that it is duly qualified and accepted as a member of the ISO-NE or has a contract with a NEPOOL participant in accordance with 220 C.M.R. 11.05 (2)(b)(14) and is in compliance with the rules and regulations of the ISO-NE as of the Effective Date of this Agreement.

5.12 General Representations.

Each Party represents that it shall perform its obligations under this Agreement in compliance with all applicable laws, tariffs, and MDPU regulations in effect during the term of this Agreement. Each person executing this Agreement for each Party represents and warrants that he or she has authority to bind that Party. Each Party represents that: (a) it has the full power and authority to execute, deliver, and perform this Agreement; (b) the execution, delivery, and performance of this Agreement have been duly authorized by all necessary corporate or other action by such Party; and (c) this Agreement constitutes that Party's legal, valid and binding obligation, enforceable against such Party in accordance with its terms. Each Party shall exercise all reasonable care, diligence and good faith in the performance of its duties pursuant to this Agreement, and carry out its duties in accordance with applicable recognized professional standards.

ARTICLE 6

COVENANTS AND OBLIGATIONS

6.1 Legal Identity.

During the Term of this Agreement and until all of Competitive Supplier's obligations under this Agreement are completed or satisfied, Competitive Supplier agrees that it will:

- (a) provide Company with sixty (60) days prior written notice of any change in [specify, corporation / limited liability company / partnership] existence and status as a registered organization;
- (b) provide Company with sixty (60) days' prior written notice, if Competitive Supplier merges into or consolidates with any other entity, or sells all or substantially all of its assets;
- (c) provide Company with thirty (30) days' prior written notice of any change in Competitive Supplier's state where it is located, incorporated or is registered, as the case may be;
- (d) not change its corporate name without providing Company with thirty (30) days' prior written notice;
- (e) not grant any security interest in the Collateral except to Company; and
- (f) remain a duly qualified member of ISO-NE and use its best efforts to maintain its membership status in accordance with the rules and regulations of the ISO-NE or continue to meet its transaction requirements through a contractual arrangement with a NEPOOL participant in accordance with 220 C.M.R. 11.05(2)(b)(14) to qualify as a Competitive Supplier. Competitive Suppliers shall notify Company within two (2) Business Days of notification from the ISO-NE of any change in Competitive Supplier's membership status or within two (2) business days after Competitive Supplier ceases to be a counterparty to a contract with a NEPOOL participant to the extent that the cessation of such contract results in the Competitive Supplier failing to qualify as a Competitive Supplier. At any time, Competitive Supplier, in its sole discretion, may terminate any contract it may have with a NEPOOL participant when such contract is unrelated to this Agreement or its qualification as a Competitive Supplier.

6.2 Cooperation.

Each Party agrees to cooperate with the other to the fullest extent possible under the law and to use its best efforts to facilitate the transactions under this Agreement. Such cooperation shall include, but not be limited to, supplying the other with all information and assistance that may be necessary or helpful to the requesting

Party in performing under this Agreement, establishing the accuracy of any Accounts Receivable or in correcting errors.

6.3 Document Delivery.

Competitive Supplier hereby agrees to promptly execute and/or deliver to Company any and all Documents Company deems necessary to evidence Company's first priority security interests in the Collateral and satisfy Competitive Supplier's obligations under this Agreement. Competitive Supplier authorizes Company to file and/or record Documents, at Competitive Supplier's sole cost and expense, including Financing Statements deemed necessary by Company to perfect its interest in the Collateral under the UCC and put third parties on notice of Company's interest in the Collateral. Competitive Supplier further agrees that Company may execute, file and/or record any such other documents at Competitive Supplier's sole cost and expense, if required, to evidence Company's interest in the Collateral, for and on behalf of Competitive Supplier. Competitive Supplier must submit a completed Competitive Supplier Information form. The form is found in Attachment C.

Competitive Supplier acknowledges and agrees that no further Documents are required to evidence Company's obligations to Competitive Supplier under this Agreement.

6.4 Third Party Financing Statements.

Competitive Supplier shall:(a) obtain any and all necessary amendments or terminations of financing statements, filed by any third party ("Third Party Financing Statements"), before the commencement of the Term of this Agreement against Competitive Supplier as a debtor in the Collateral contemplated under this Agreement, specifically obtaining a release of the Collateral; and (b) ensure that any and all Third Party Financing Statements filed subsequent to the commencement of the Term of this Agreement shall expressly (i) except the Collateral from the description of collateral therein, and (ii) specifically reference this Agreement to ensure continuation of Company's first priority perfected security interest in the Collateral.

6.5 Notification.

In addition to the requirements in Article 7, Competitive Supplier shall provide copies to Company of any Third Party Statements filed after the commencement of the Term of this Agreement prior to the filing of any such statements to allow Company to review such Third Party Financing Statements. After its receipt of the Third Party Financing Statements, Company shall have three (3) Business Days to object to such statements on the ground that the execution of the Third Party Financing Statement would grant a security interest in the Collateral or otherwise affect Company's security interest in the Collateral. Competitive Supplier shall deliver the Third Party Financing Statements by a nationally recognized courier service and by facsimile to Company at the address and facsimile numbers set forth in Section 15.7 of this Agreement. Third Party Financing Statements delivered by facsimile shall be deemed given on the day of receipt; provided that the statements delivered by nationally recognized courier service are received by Company before noon Massachusetts time on the next Business Day following the receipt of the facsimile.

6.6 Suspension of Tariff Delivery Service.

In connection with the receipt of Standard Complete Billing Services as defined in Section 2.1 (a) of this Agreement, during the Term of this Agreement, Competitive Supplier assigns to Company any and all rights to request Company to suspend its Tariff delivery service or collect Accounts Receivable and Competitive Supplier waives all of its rights to exercise these activities without Company's consent.

6.7 Parties' Responsibilities.

(a) Competitive Supplier shall notify Company within twenty-four (24) hours in writing if its license to act as a Competitive Supplier, as provided in 220 C.M.R. 11.05, is acted upon by the MDPU in such a way that it materially affects Competitive Supplier's performance under this Agreement, including but not limited to suspension, revocation, modification, or non-renewal. Non-renewal or revocation of Competitive Supplier's license shall be grounds for immediate termination of this Agreement by the Company.

- (b) Company shall notify Competitive Supplier within a reasonable period of discovery of its inability to pay for the Account Receivables or its inability to perform any material obligations under this Agreement.
- (c) Company shall notify Competitive Supplier if the MDPU takes action with respect to Company's ability to operate as a public utility in such a way that it materially affects Company's performance under this Agreement, including but not limited to suspension, revocation, modification, or non-renewal.
- (d) Competitive Supplier shall notify Company no less than forty-eight (48) hours prior, as applicable, to an event reasonably within the Competitive Supplier's knowledge, and of which Competitive Supplier has reason to believe Company has no knowledge, that will render Competitive Supplier or its agent unable to maintain their status with NEPOOL, required to serve load. Upon such notice or upon the occurrence of such an event, Company shall have the immediate right to switch the affected Competitive Supplier's Customers to Basic Service, under the Company's tariffs, and Company's obligation to purchase Unbilled Accounts Receivable under this Agreement would cease for such Customers.
- (e) Competitive Supplier shall update information requested in Attachment C ten (10) days prior to any change in information contained in Attachment C. Company shall update information in Attachment D fifteen (15) days prior to any change in information contained in Attachment D.
- (f) Competitive Supplier acknowledges that Company will select and may from time to time change the electronic transmission vehicle. Company will not change the electronic transmission vehicle without first providing Competitive Supplier via Internet electronic mail at least fifteen (15) days prior written notice of any such change.
- (g) Competitive Supplier acknowledges that Company will not include Competitive Supplier's preexisting balances on Standard Complete Billing for newly enrolled Customers.
- (h) Competitive Supplier acknowledges that Company is authorized to deny Generation Service to Customers if Company has terminated such Customer's Distribution Service in accordance with the rules and regulations of the MDPU, including the MDPU's billing and termination regulations, until such time as the Customer is reinstated by the Company. In order for the Competitive Supplier to serve such a Customer after reinstatement, Competitive Supplier must re-enroll the Customer.
- (i) During the term of this Agreement, as to any EBT Standards implemented, subsequent to the initial testing period, Competitive Supplier shall be required to successfully complete testing of said standards in accordance with the EBT Standards.

ARTICLE 7

CONDITIONS PRECEDENT

The commencement of the Term and the obligations of Competitive Supplier and Company under this Agreement are subject to the satisfaction of the following *conditions precedent*:

7.1 Competitive Supplier shall deliver the following information to the Company, marked to the attention and address of Company's representative in Section 15.7, prior to the commencement of the Term of this Agreement:

- (a) complete list of any liens in favor of a third party, as creditor, against Competitive Supplier as debtor in Massachusetts and in the Competitive Supplier's state of organization or incorporation;
- (b) copies of all documents evidencing such liens including any Third-Party Financing Statement filed against Competitive Supplier, as debtor in Massachusetts and in the Competitive Supplier's state of organization or incorporation;
- (c) a certified copy of a lien search of Competitive Supplier from the UCC filing offices under the UCC or a report that is complete and satisfactory to Company, such that Company is satisfied that any Collateral that has

been previously pledged by the Competitive Supplier whether recorded or not, has been fully discharged and released, and that no lien currently is recorded against the Collateral. An uncertified lien search obtained from an internet based website from Competitive Supplier's state of organization shall not satisfy the requirements under this Section. The lien search obtained shall be at Competitive Supplier's sole cost and expense; and

(d) an original or certified copy of a certificate of good standing with respect to Competitive Supplier issued by the Secretary of State of Competitive Supplier's jurisdiction of organization and, if such jurisdiction is not the Commonwealth of Massachusetts, then an original certificate of authority evidencing that Competitive Supplier is duly qualified and in good standing as a foreign organization in the Commonwealth of Massachusetts.

7.2 MDPU Registration.

Competitive Supplier shall provide evidence to the Company that the Competitive Supplier has registered and obtained all necessary licensing from the MDPU.

7.5 Certificate of Authority.

At or prior to the date of its execution of this Agreement, Supplier shall provide Company with a copy of its State of Massachusetts Certificate of Authority as a sales tax vendor. At all times during the Term of this Agreement, Supplier shall maintain current its Certificate of Authority.

7.6 Payment of Taxes.

In accordance with Section 3.4, the amount of sales and use taxes invoiced to Customers in connection with Competitive Supplier's portion of Billed Amounts will be provided in Competitive Supplier's Statements/Reports. Competitive Supplier shall be considered the vendor for purposes of liability for taxes related to Billed Amounts. Nothing in this Agreement shall be construed as imposing upon Company the obligation of remitting to any federal, state, or local taxing authority those taxes that are the collection and remittance responsibility of Competitive Supplier with respect to any Billed Amounts or with respect to Company's purchase of Accounts Receivable from Competitive Supplier. Competitive Supplier shall be liable for and shall pay all such taxes, and shall further indemnify, defend, and save harmless Company from and against any and all liability for such taxes, and any interest or penalties thereon.

7.3 EBT Testing.

Prior to customer enrollment, Competitive Supplier shall successfully complete testing with the Company of the Electronic Business Transactions ("EBT") as specified in the EBT Working Group Report and any other applicable EBT Working Group standards published under the direction of the EBT Working Group (*i.e.*, on the EBT Working Group Website or its successor) (all of which together with the EBT are referred to as "EBT Standards" herein) as the same may be amended from time to time.

Customer transactions will be processed in accordance with the EBT Standards. These transactions include, but are not limited to, account administration, reporting of Customer usage and billing, and reporting of Customer Payments and adjustments. Any changes in these standard transactions will be in accordance with the EBT Standards.

7.4 Failure to Provide Satisfactory Information.

If the information provided by Competitive Supplier under this Article 7 is not, in the reasonable opinion of Company, satisfactory, complete and acceptable in form and substance, and such information does not provide adequate evidence that Company's interest in the Collateral is superior to any third party's interest, then Company may provide written notice to Competitive Supplier that the Term of this Agreement shall not commence and shall not be effective until the required information has been provided.

ARTICLE 8

TERM OF AGREEMENT

8.1 The initial term of this Agreement ("Term") shall commence on the date (the "Effective Date") that is the later to occur of (a) the date of this Agreement or (b) the date that Competitive Supplier submits the initial Billing Price Determinants to Company; provided, however, that Competitive Supplier fulfills its condition precedents under Article 7 to Company's satisfaction. If Competitive Supplier does not fulfill the obligations under Article 7, the Term of this Agreement shall not commence and no obligations will arise with respect to Company and this Agreement shall be null and void. The Term of this Agreement shall only commence in accordance with express terms and conditions of this Agreement and continue in full force and effect for the duration of the Program, unless earlier terminated in accordance with Article 9.

ARTICLE 9

TERMINATION/EVENT OF DEFAULT

9.1 Termination for Convenience.

Subject to MDPU approval, either Party may terminate for convenience this Agreement upon sixty (60) days prior written notice to the other Party.

9.2 Termination for Default.

Except as otherwise provided in this Article 9, this Agreement may be terminated by either Party (the "Terminating Party") upon prior written notice to the other Party upon the occurrence of any of the following events ("Events of Default") with respect to the other Party (the "Defaulting Party"):

- (a) The Defaulting Party's failure to make any payment required under this Agreement when or before due which failure continues for five (5) days after receipt of written notice from the Terminating Party; or
- (b) Any representation or warranty made or deemed made by the Defaulting Party herein or in connection with this Agreement proves to have been incorrect in any respect when made or deemed made; or
- (c) The Defaulting Party's failure to materially perform or observe any other term, covenant or agreement contained in this Agreement on its part to be performed or observed if such failure shall remain unremedied for a period of thirty (30) days after written notice thereof shall have been given to the Defaulting Party; or
- (d) The Defaulting Party's ceasing to do business for five (5) or more days, or generally not paying its debts as such debts become due; or admitting in writing its inability to pay its debts generally or making an assignment for the benefit of creditors; or the institution of any proceeding by or against the Defaulting Party seeking to adjudicate it as bankrupt or insolvent, or seeking liquidation, winding up, reorganization arrangement, adjustment, protection relief or composition of it or its debts under any law relating to bankruptcy, insolvency or reorganization or relief of debtors, or seeking the entry of an order for relief or the appointment of a receiver, trustee, custodian or other similar official for it or for any substantial part of its property and, in the case of any such proceeding instituted against it (but not instituted by it) either such proceeding shall remain undismissed or unstayed for a period of sixty (60) days, or any of the actions sought in such proceeding (including, without limitation, the entry of an order for relief against, or the appointment of a receiver, trustee, custodian or other similar official for, it or for any substantial part of its property) shall occur; or the Defaulting Party or any of its Subsidiaries or Affiliates shall take any corporate/organizational action to authorize any of the actions set forth or the appointment of a receiver, trustee or custodian over, or an execution, attachment or levy upon, all or any material part of the property of the Defaulting Party.

Upon termination for default, the Terminating Party shall have the additional right to declare all amounts owing under this Agreement from the Defaulting Party to be immediately due and payable.

9.3 Additional Rights.

In addition to the termination rights set forth in Section 9.1 and 9.2 above, the Parties have the following additional rights under the Agreement:

- (a) In the event of a Party's failure to comply with the Terms and Conditions, or with any tariffs on file with the FERC that may be applicable to the Program, or with any tariffs on file with the MDPU or MDPU requirements applicable to the Program, the other Party shall have the right to exercise any such rights authorized and provided in the Terms and Conditions or by any MDPU requirements applicable to the Program including the right to immediately terminate this Agreement;
- (b) In the event of either Party's failure to maintain in place at all times, any and all governmental approvals, if required, for the Party to receive service from the other under this Agreement or to sell the Generation Service to Customers, whether such approvals are issued by the MDPU or other state or federal regulatory authority of competent jurisdiction, the other Party shall have the right to immediately terminate this Agreement and/or seek relief from the MDPU upon the expiration of any applicable cure period provided to the other Party by such state or regulatory authority; and
- (c) In the event of a Party's breach of this Agreement or any other written agreement with the other Party in connection with the Program, the aggrieved Party shall have the right to terminate this Agreement in the event such breach continues uncured for ten (10) days after written notice of termination to the other Party.

9.4 Payment Obligations.

At the end of the Term or upon the earlier termination of this Agreement, whether for convenience or otherwise, the Parties shall remain responsible for their respective payment or reimbursement obligations of any and all sums due or owing under this Agreement prior to such termination. Each Party shall have the right to set off such sums against amounts otherwise payable to the other Party in accordance with the provisions of this Agreement.

9.5 Cumulative Remedies.

The rights and remedies set forth in this Article 9 are in addition to any and all rights allowed by this Agreement, the Terms and Conditions or any other applicable tariff, the UCC, the applicable laws of the Commonwealth of Massachusetts, and any applicable rules and regulations thereunder or the common law. All rights and remedies shall be cumulative and may be exercised separately or concurrently.

ARTICLE 10

LOW-INCOME CUSTOMERS

- 10.1 In accordance with M.G.L. c. 164, § 1F(4)(i), applicable regulations, and the EBT Standards, Company guarantees payment to Competitive Supplier using the Standard Complete Billing Service option the Account(s) Receivable Purchase Price payment for all power sold to each Customer served on the Company's filed Low Income Rate(s). The guaranteed payment to Competitive Suppliers using the Pass-Through Billing Service option shall be calculated pursuant to Section 10.2.
- 10.2 Competitive Supplier agrees to cease Generation Service with such Customers prior to the request for payment on the guarantee. The guaranteed payment amount shall be calculated in accordance with this Agreement and the Terms and Conditions using the lower of (i) the Default or Basic Service price; (ii) Competitive Supplier's price as billed; or (iii) such other price that is determined appropriate by the MDPU for the three most recent Company monthly billing periods for the Customer. Competitive Supplier agrees to assign to Company all amounts payable by such Customers for which Competitive Supplier exercises its option to receive guaranteed payment from the Company.

10.3 If the Customer makes a payment to the Competitive Supplier after the Competitive Supplier receives a payment from the Company on the guarantee, and such payment results in a credit balance on the Customer's account with the Competitive Supplier, Competitive Supplier must repay that balance, up to the guaranteed amount, to the Company.

10.4 Competitive Supplier shall retain such specific records for two (2) years from the date of payment on the guarantee as may be required to support the validity of its requests for payment on the guarantee. Company may request the production of such documents to allow for a review of the guaranteed payment process. Such documents shall be produced by Competitive Supplier within ten (10) Business Days of such request.

ARTICLE 11

FORCE MAJEURE

11.1 Any delays in or failure of performance by the Parties, other than the payment of monies, shall not constitute an Event of Default and shall be excused under this Agreement, if and to the extent such delays or failures of performance are caused by occurrences that are both: (a) beyond the reasonable control of the affected Party, including, but not limited to, acts of God, compliance with any order or request of any governmental or judicial authority, compliance with Company's public service obligations, riots or strikes or other concerted acts of workers, storms, fires, floods, and accidents; and (b) beyond the ability of the affected Party to prevent, by the exercise of reasonable diligence. In the event of a force majeure, both Parties shall take all reasonable steps to comply with this Agreement.

ARTICLE 12

LIMITATION OF LIABILITY

12.1 Liability limitations.

The Parties acknowledge that the liability and indemnification provisions in Section 10 of the Terms and Conditions are incorporated herein by reference. For purposes of such liability and indemnification, however, the Parties acknowledge and agree that nothing in such Terms and Conditions prohibits one Party from impleading the other Party as a third-party defendant, whether or not one or both Parties are named defendants in the initial claim of a third-party. The third-party claim shall be stayed pending resolution of any dispute regarding liability and indemnification under this Agreement. Such resolution shall be final and binding upon the Parties only after agreement between the Parties or after entry of a final judgment, after any further appeals of a court of competent jurisdiction to which any appeal may have been taken from the determination of the arbitrator(s). The Parties acknowledge and agree that for purposes of Section 10 of the Terms and Conditions, a Party seeking recovery from the other Party in connection with the performance of its obligations of the Terms and Conditions shall not be entitled to recovery if its conduct is deemed to be more negligent than the conduct of the other Party.

The Parties expressly acknowledge and agree that the dispute resolution provision in Section 15.19 of this Agreement shall apply to any and all disputes arising under this paragraph, including without limitation, those disputes that arise as a result of either of the Parties being named as a defendant in the primary action or being named as a third-party defendant by a defendant in the primary action.

Notwithstanding anything in this Agreement or the Terms and Conditions to the contrary, each Party's liability under this Agreement shall be limited to direct damages and in no event shall either Party be liable to the other Party for any indirect, incidental, consequential, punitive, special, or exemplary damages under any theory of law that is now or may in the future be in effect, including without limitation: contract, tort, M.G.L. c. 93A, strict liability, or negligence, including, but not limited to, lost profits or revenues and expenses involving cost of capital.

Notwithstanding the availability of other remedies at law or in equity, either Party hereto shall be entitled to specific performance to remedy a breach of this Agreement by the other Party.

The provisions of this Article 12 shall survive the expiration, cancellation, or termination of this Agreement.

ARTICLE 13

INDEMNIFICATION

- 13.1 Except as provided in Section 9E of the Terms and Conditions, the Company and Competitive Supplier shall indemnify and hold each other and their respective Affiliates, and directors, officers, employees, and agents of each of them harmless from and against any and all damages, costs, including attorneys' fees, fines, penalties, and liabilities, in tort, contract, or otherwise (collectively, "Liabilities"), resulting from claims of third parties arising, or claimed to have arisen, from the acts, omissions of such Party in connection with the performance of its obligations under the Terms and Conditions. The Company and Competitive Supplier shall waive recourse against the other Party and its Affiliates for or arising from the non-negligent performance by such other Party in connection with the performance of its obligations under the Terms and Conditions.
- 13.2 The Parties agree that the Competitive Supplier's obligations pursuant to Section 10 of the Terms and Conditions are limited solely to Section 10 of the Terms and Conditions, and include Liabilities associated with: (a) Competitive Supplier's acts or omissions regarding the Accounts Receivable or billing determinants provided by Competitive Supplier; (b) Competitive Supplier's failure to remit to the appropriate taxing jurisdiction any sales and use taxes; (c) any other agreement or understanding alleged to have been made with Competitive Supplier in connection with the Collateral or Collateral-related transactions contemplated by this Agreement, and (d) any inaccuracy in any document or affidavit provided to Company under this Agreement or other breach of any representation or warranty or affidavit made by Competitive Supplier in this Agreement. The Parties agree that a Party's obligations pursuant to Section 10 of the Terms and Conditions include Liabilities associated with (a) a failure by a Party to satisfy its obligations under this Agreement; and (b) all costs and expenses, including reasonable fees and expenses of counsel and other advisors, associated with any costs or losses incurred by a Party in connection with the Liabilities.

The Parties agree that the Company's obligations to Competitive Supplier pursuant to Section 10 of the Terms and Conditions are limited solely to Section 10 of the Terms and Conditions and that Section 10 of the Terms and Conditions shall be subject to, and does not alter or in any way modify or nullify any limitations on the Company's liabilities pursuant to other Company tariffs, including, but not limited to Company's Terms and Conditions for Distribution Service. Moreover, pursuant to Company's Terms and Conditions in Section 9E, the Company shall not be responsible for any estimating errors and shall not be liable to the Competitive Supplier for any costs that are associated with such estimating errors.

13.3 RESERVED.

13.4 **Defense.** Competitive Supplier and Company, respectively, shall take action to defend, indemnify and hold the Indemnified Parties harmless against any and all claims, actual or threatened, promptly, but in no event later than the service of a notice, summons, complaint, petition, or other service of process with respect to such claims, including, as applicable, the engagement of legal counsel, to respond to, defend, or settle, or compromise any claim or threatened claim.

13.5 **Enforcement.** Competitive Supplier and Company respectively shall pay any and all costs and expenses (including reasonable attorneys' fees) incurred to enforce the provisions of this Article 13.

13.6 **Survival.** The obligations set forth in this Article 13 shall survive the expiration, cancellation, or termination of this Agreement.

ARTICLE 14

NONDISCLOSURE

14.1 Nondisclosure of Confidential Information.

Neither Party may disclose any Confidential Information obtained pursuant to this Agreement to any third party, including Affiliates, without the express prior written consent of the other Party. As used herein, the term "Confidential Information" shall include, but not be limited to, all business, financial, and commercial information pertaining to the Parties, Customers of either or both Parties, suppliers for either Party, personnel of either Party; any trade secrets; and other information of a similar nature whether written or in intangible form that is marked proprietary or confidential with the appropriate owner's name. Confidential Information shall not include information known to either Party prior to obtaining the same from the other Party, information in the public domain, or information obtained by a third party who did not, directly or indirectly, receive the same from the other Party to this Agreement or from a Party who was under an obligation of confidentiality to the other Party to this Agreement, or information developed by either Party independent of any Confidential Information. The receiving Party shall use the higher of the standard of care that the receiving Party uses to preserve its own Confidential Information or a reasonable standard of care to prevent unauthorized use or disclosure of such Confidential Information. Each receiving Party shall, upon termination of this Agreement or at any time upon the request of the disclosing Party, promptly return or destroy all Confidential Information of the disclosing Party then in its possession.

14.2 Exceptions.

Notwithstanding the preceding, Confidential Information may be disclosed to any governmental, judicial or regulatory authority requiring such Confidential Information pursuant to any applicable law, regulation, ruling, or order, provided that: (a) such Confidential Information is submitted under any applicable provision, if any, for confidential treatment by such governmental, judicial or regulatory authority; and (b) prior to such disclosures, the other Party is given prompt notice of the disclosure requirement so that it may take whatever action it deems appropriate, including intervention in any proceeding and the seeking of any injunction to prohibit such disclosure.

ARTICLE 15

MISCELLANEOUS

15.1 Entire Agreement/Integration/Merger/Survival.

This Agreement, as may be amended in accordance with Section 15.3, constitutes and expresses the entire understanding between the Parties with respect to the subject matter hereof. The Parties agree that there are no understandings, agreements, or representations, expressed or implied, other than those expressed herein. This Agreement supersedes and merges all prior and contemporaneous agreements, discussions, understandings, inducements or conditions, whether expressed or implied, written or oral. This Agreement shall not merge with or be terminated or suspended by any future agreement between the Parties which does not specifically and in writing so provide. Upon execution of this Agreement by the Parties, except as otherwise provided in this Agreement, the Parties shall no longer be bound by the terms and provisions of any previous definitive billing service agreements between the Parties and such agreements shall be terminated and superseded by this Agreement, except for such terms and provisions that expressly or by their operation survive the termination or expiration of such definitive billing services agreement, provided that such terms do not conflict with the terms of this Agreement. As of the expiration of this Agreement or, if earlier, its termination, the Parties shall no longer be bound by the terms and provisions hereof, except (a) to the extent necessary to enforce the rights and obligations of the Parties arising under this Agreement before such expiration or termination or (b) for such terms and provisions that expressly or by their operation survive the termination or expiration of this Agreement.

15.2 **No Further Obligation.**

Upon expiration, cancellation, or termination of this Agreement, Company shall thereafter have no obligation to include Competitive Supplier's Accounts Receivable on its bills to Customers.

15.3 **Modifications**

This Agreement, and any provision thereof, shall not be superseded, modified, amended, waived, or otherwise changed, except in a writing duly signed by both Parties.

15.4 **Assignment.** Competitive Supplier shall not assign all or any part of the monies payable by Company under this Agreement without the prior written consent of Company, which consent Company shall not unreasonably withhold, except Competitive Supplier may, upon twenty (20) days' prior written notice to Company, assign such monies to any lender of Competitive Supplier, or financial institution of Competitive Supplier for financing or credit purposes excluding any assignment of the Collateral. Competitive Supplier, to the fullest extent of the law, shall indemnify and hold Company harmless from any loss, damage or claim which may at any time be imposed on, incurred by or asserted against Company by Competitive Supplier or any third parties (including Customers) that are directly or indirectly caused by, arise out of or under or are associated with, incident to or in connection with any assignment under this Section 15.4. Notwithstanding anything to the contrary herein, under no circumstances shall Competitive Supplier sell, assign, transfer, pledge or otherwise dispose of any of the Collateral.

In addition, either party may subcontract its duties under this Agreement to a subcontractor provided that the subcontracting party shall remain fully responsible as a principal and not as a guarantor for performance of any subcontracted duties, and shall serve as the point of contact between its subcontractor and the other party, and the subcontractor shall meet the requirements of any applicable laws, rules, regulations, and Terms and Conditions. The assigning or subcontracting party shall provide the other party with thirty (30) calendar days' prior written notice of any such subcontracting or assignment, which notice shall include such information about the subcontractor as the other party shall reasonably require.

15.5 **Successors Bound.** This Agreement shall be binding upon and inure to the benefit of each Party and its respective legal representatives, successors, and permitted assigns and shall survive any acquisition merger, reorganization or other business combination to which it is party.

15.6 **No Third-Party Beneficiaries.** This Agreement is solely between the Parties and is not intended to confer any rights whatsoever on any third parties.

15.7 **Notices.** Except as otherwise provided in this Agreement, each Party hereby designates the following individuals to be its duly authorized representative for the receipt of any legal or contractual notices required to be sent to such Party. Such notices shall be deemed duly sent when personally delivered or mailed by registered or certified mail, return receipt requested, postage prepaid, to the intended Party's designated representative at the addresses set forth hereafter or to such other address as the Party to whom the same is intended shall have specified in conformity with this provision.

National Grid Attn: Customer Choice, Revenue Cycle Management, 175 East Old Country Road
Hicksville, New York 11801 Facsimile Number: 516-545-3250

Competitive Supplier's notice information is provided in Attachment C to this Agreement

15.8 **Choice of Law.**

This Agreement shall be interpreted and enforced according to the laws of the Commonwealth of Massachusetts without regard to the choice of law provisions thereof. Venue in any legal action shall lie exclusively in the County of Middlesex of the Commonwealth of Massachusetts. The Parties hereby consent to the personal jurisdiction of courts in the Commonwealth of Massachusetts in any litigation or proceeding concerning any issues related to this Agreement, including the validity, enforceability, or interpretation of this Agreement.

15.9 **Severability.** To the extent that any provision of this Agreement shall be held to be invalid, illegal or unenforceable, it shall be severed from this Agreement without affecting the validity, legality or enforceability of the remaining provisions of the Agreement.

15.10 **Headings.** The headings contained in this Agreement are provided solely for the convenience of the Parties and shall neither expand nor restrict the rights and obligations created herein.

15.11 **Conflict: Order of Precedence.**

In the event of conflict between the terms of this Agreement as executed or amended and the provisions of the Terms and Conditions or the EBT Working Group Report, including, without limitation, the definitions set forth in this Agreement, any conflict will be resolved in the following order of precedence: Terms and Conditions, Agreement, EBT Working Group Report.

15.12 **No Waiver.**

No failure on the part of any Party to exercise, or delay in exercising, any right hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any such right preclude any other or further exercise thereof or the exercise of any other right. The remedies herein provided are cumulative and not exclusive of any remedies provided by law.

15.13 **Additional Service(s) and Opt-In Programs.**

In the event that Competitive Supplier requests additional service(s) from Company that are not provided under this Agreement, Company will provide Competitive Supplier with a price quote(s) for service(s) so requested. If Competitive Supplier accepts Company's price quote(s) and Company agrees to provide such service(s), then the associated prices for each service shall be more fully set forth on Attachment B, annexed hereto and made a part hereof. The additional service(s) set forth on Attachment B shall be in addition to any service(s) under this Agreement and shall be at Competitive Supplier's sole cost and expense. Competitive Supplier shall pay Company for the additional service(s) in accordance with the price and upon terms set forth on Attachment B.

15.14 **Execution in Counterparts.**

This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original copy of this Agreement and all of which, when taken together, will be deemed to constitute one and the same agreement. The exchange of copies of this Agreement and of signature pages by electronic transmission (whether by telecopier or by email) shall constitute effective execution and delivery of this Agreement as to the Parties and may be used in lieu of the original Agreement for all purposes. Signatures of the Parties transmitted by electronic transmission shall be deemed to be their original signatures for all purposes. In proving this Agreement it shall not be necessary to produce or account for more than one such counterpart signed by the Party against whom enforcement is sought.

15.15 **RESERVED**

15.16 **Fees.** Company may charge fees to Competitive Supplier as set forth in Attachment D or the Terms and Conditions. Company shall have the right to subtract fees that Competitive Supplier owes to Company, and

that are sixty (60) days or more past due, from amounts Company collects on behalf of Competitive Supplier for reimbursement to Competitive Supplier. Amounts subject to a good faith dispute will not be subject to deduction. Competitive Supplier reserves the right to dispute such charges and/or claim that such charges are inconsistent with the MDPU's approved Terms and Conditions, or are otherwise not in accordance with the law.

15.17 Billing and Payment for Services.

Bills for services provided by Company under the terms of this Agreement shall be rendered to Competitive Supplier on a monthly basis and shall be due upon receipt of said bill, unless otherwise specified in Attachment B. Failure of Competitive Supplier to pay within twenty-five (25) days of the posting date on the bill shall result in the addition of interest on any unpaid balance calculated at the rate of 1.5% per month commencing from the date said bill was due. The posting date is the date the bill is transmitted to the Competitive Supplier. The bill may also be transmitted electronically if agreed to by the Parties.

15.18 RESERVED

15.19 Dispute Resolution.

Disputes hereunder shall be reduced to writing and referred to the Parties' representatives for resolution. The Parties' representatives shall meet and make all reasonable efforts to resolve the dispute. Pending resolution, the Parties shall continue to fulfill their obligations under this Agreement in good faith, unless this Agreement has been suspended or terminated as provided in Article 9.0. If the Parties fail to resolve the dispute within thirty (30) days, they may mutually agree to pursue mediation or arbitration to resolve such issues. The parties agree that the place of mediation or arbitration shall be Boston, Massachusetts.

In witness whereof, the parties have caused this Agreement to be executed by their duly authorized representatives as of the date above.

SUPPLIER

By: _____

Title: _____

Date: _____

MASSACHUSETTS ELECTRIC COMPANY

Print: _____, Director

Signature: _____

Date: _____

NANTUCKET ELECTRIC COMPANY

Print: _____, Director

Signature: _____

Date: _____

ATTACHMENT B

ADDITIONAL SERVICES

The following is a list of Additional Services, as described in Section 15.13. Printing of Competitive Supplier

Logo on Customer Bill Other Additional Services

ATTACHMENT C

COMPETITIVE SUPPLIER INFORMATION

Competitive Supplier must fill this form out completely and return it to Company prior to entering into a contract for services with Company. Failure to fill out this form completely will render Company unable to provide services for Competitive Supplier.

A. General Information (all Competitive Suppliers)

1. Legal name of the Competitive Supplier _____
2. d/b/a name, if applicable _____
3. Competitive Supplier Address _____
4. Type of Business Entity _____
5. Competitive Supplier Customer Service phone number _____
6. Competitive Supplier Tax Identification number _____
7. Competitive Supplier Dun & Bradstreet number _____
8. Name of the Competitive Supplier's general contact _____
9. Competitive Supplier's general contact phone number _____
10. Competitive Supplier's general contact facsimile number _____
11. Competitive Supplier's general contact e-mail address _____
12. Name of Competitive Supplier's technical contact _____
13. Competitive Supplier's technical contact phone number _____
14. Competitive Supplier's technical contact facsimile number _____
15. Competitive Supplier's technical contact e-mail address _____
16. Has Competitive Supplier attended Massachusetts Competitive Supplier Training?
17. Has Competitive Supplier been granted a license by the Department of Public Utilities? _____

License Number _____

B. Billing and Banking Information

- 1 If the Competitive Supplier is planning to assign its own account number, provide format and size

- 2 Name of receiving bank (to accept electronic transfer of Customer Payments)

- 3 Routing and transit number (ABA number) _____
- 4 Bank account number _____

C. Value Added Network (VAN)

- 1 Name of VAN Provider _____
- 2 ISA Qualifier _____

3 ISA ID _____

4 GS Identifier _____

D. Establishment of NEPOOL Tie Line

1 Name of the NEPOOL Participant in whose NEPOOL Own Load Dispatch the Competitive Supplier's load will be served _____

2 Own Load Number (if available) _____

3 Competitive Supplier contact name _____

4 Competitive Supplier contact phone number _____

5 Competitive Supplier contact facsimile number _____

6 Competitive Supplier contact e-mail address _____

7 Estimated Load Transfer (KW Demand) _____

8 Estimated Transfer _____

E. Competitive Supplier Load Allocation, if requested

1 Check to receive load estimation results Yes _____ No _____

2 Competitive Supplier contact name _____

3 Competitive Supplier contact phone number _____

4 Competitive Supplier contact e-mail address _____

F. Notices to Competitive Supplier shall go to:

Name: _____

Address: _____

Phone Number: _____

Facsimile Number: _____

Electronic Mail: _____

Authorized Signature: _____

Title: _____

Date: _____

ATTACHMENT D

COMPANY SPECIFIC PROVISIONS

1. Relationship of Massachusetts Electric Company and Nantucket Electric Company

The rights and obligations of Massachusetts Electric Company and Nantucket Electric Company are several and not joint. To the extent that liability under this Agreement can be specifically tied to either company, that company shall exclusively bear such liability. To the extent liability under this Agreement cannot be tied specifically, each company shall be severally liable for a percentage thereof equal to the percentage of Competitive Supplier's Customers in each service territory as of the date such liability is incurred. Such percentage shall at all times aggregate to 100%.

2. Budget and Payment Options

Competitive Supplier acknowledges that Company offers customers payment options that include budget and payment plans. Both options modify the amount that is considered the current amount due. Payment plans will normally generate a current amount due greater than the actual monthly charges as this option is typically used to recover the current month's bill plus some portion of the total outstanding balance. Budgets are typically used to allocate an annual bill equally over twelve months. This equal allocation can generate a current amount due that is greater than or less than the actual calculated charges for a given billing period. Budgets or payment plans shall not affect any Accounts Receivable Purchase Price offered pursuant to this Agreement.

3. Summary Billing

Competitive Supplier acknowledges that Company offers a summary billing option, which allows qualified Customers with multiple electric service accounts to consolidate multiple individual billings on a single bill format.

4. Fees

Competitive Supplier agrees to pay any fees once and as approved by the MDPU. Company shall notify Supplier of the approval of any such fees, as included in the Company's Terms and Conditions for Competitive Suppliers, as amended from time to time.

5. Holidays and Time

Any reference made with respect to time either in this agreement or the EBT Standards is understood to be Eastern Standard Time adjusted to account for Daylight Savings Time.

The Company observes the following holidays and will not receive or process electronic transactions on the following days: New Year's Day, Martin Luther King, Jr. Day, President's Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veteran's Day, Thanksgiving Day, The Day After Thanksgiving, The Last Weekday Before Christmas Day, and Christmas Day. All holidays will be the nationally observed day.

Business Continuity Plan

If the electronic transmission vehicle used to send and receive files is out of service, the Company will use a business continuity plan which will be posted on the Company's web site. In such an event, Competitive Supplier agrees to cooperate with Company and abide by the contents of Company's business continuity plan. Competitive Supplier may contact Company's representative, as provided below, for further information about accessing the continuity plan.

Company Contact

Information on how to contact the Company's representative for the administration of this Agreement shall be posted on the Company's web site.

ATTACHMENT E

PURCHASING OF EXISTING ACCOUNTS RECEIVABLE

Transition Rate Calculation Methodology

- After final approval by the MDPU of the Company's implementation plan for the purchase of a Competitive Supplier's Accounts Receivable ("AR") pursuant to D.P.U. 10-53, the risk of the collective Competitive Supplier's commodity AR will be determined as of the last day of the month that is at least one month prior to the MDPU final order "go-live" date in D.P.U. 10-53 ("AR Date").
- The Company will first determine an indebtedness portfolio by assigning each customer's AR existing at the time of the AR Date to an indebtedness bucket (e.g., 0-29 days, 30-59 days, 60-89 days plus, 90-119 days, and 120 days plus). The AR will consist of the delivery and commodity charges for all of the Company's customers, inclusive of the commodity charges billed on behalf of Competitive Suppliers. An uncollectible risk rate for each indebtedness bucket will be determined by dividing the write-offs associated with each bucket over the 12-month period following the AR portfolio existing at the month-end 12-months prior to the AR Date plus the charge-back credits to the Competitive Suppliers over that same period that stem from the same AR portfolio, by the indebtedness AR.
- Three collective Transition Rates will be determined for all competitive suppliers: Residential; Commercial; and Industrial. These collective Transition Rates are defined as the weighted average of the uncollectible risk rates for each indebtedness bucket. Three single blended Transition Rates will be provided to all Competitive Suppliers by these three Customer classes.
- Any existing AR for a Competitive Supplier will be purchased at the discount amounts represented by the three Transition Rates upon the Competitive Supplier's initiation of the Program.

Indebtedness: The collective view of a customer's accounts receivable against which an uncollectible risk rate is assessed. In this perspective, all of a customer's accounts receivable is gathered into an aged bucket in which their oldest dollar lies. For example, assume a single customer's accounts receivable is spread in the following manner on a straight aging basis:

Days	0-29	30-59	60-89	90-119	120+	Total A/R
	\$100	\$100	\$100	\$100	\$100	\$500

In an indebtedness view, this customer's accounts receivable is placed in the bucket where its oldest dollar lies:

Days	0-29	30-59	60-89	90-119	120+	Total A/R
	\$0	\$0	\$0	\$0	\$500	\$500

- The calculation of the Transition Rates will be consistent with the illustrative methodology presented in the Transition Rate Model addendum.

NATIONAL GRID TRANSITION RATE MODEL ADDENDUM

ILLUSTRATIVE EXAMPLE

ESCO COLLECTIVE TOTAL INDEBTEDNESS A/R on "AR Date" -- mm-dd-2014
(5000's)

	0-29	30-59	60-89	90-119	120+	ESCO AR
RES AR \$	3,135 \$	1,523 \$	806 \$	372 \$	1,164 \$	7,000 (a)
NONRES AR \$	11,908 \$	7,299 \$	2,305 \$	576 8	912 5	23,000 (b)
\$	15,043 \$	8,822 \$	3,111 \$	948 \$	2,076 S	30,000 (c)

NATIONAL GRID UNCOLLECTIBLE RATES

(By Indebtedness Aging Buckets for 12-Mo Period ending on "AR Date")
(Write-Offs + Charge Backs divided by AR 12-Mo Prior to "AR Date")

	0-29	30-59	60-89	90-119	120+	
RES AR	0.80%	3.00%	8.00%	14.00%	24.00%	(d)
NONRES AR	0.20%	2.50%	4.00%	11.00%	23.00%	(e)

ESCO Collective Residential & Non-Residential Charge Off Estimates

	0-29	30-59	60-89	90-119	120+	
RES AR \$	25 \$	46 \$	64 \$	52 \$	279 \$	467 (f) = [(a) x (d)]
NONRES AR \$	24 \$	182 \$	92 \$	63 \$	210 S	572 (g) = 1 (b) x (e)]
\$	49 \$	228 \$	157 \$	115 \$	489 S	1,038 (li)

ESCO Collective Residential and Non-Residential Transition Rates

RES AR	6.67% (i) [(1)/ (a)]
NONRES AR	2.49% (1) = [(g)/(b)]

ESCO Transition Rates by POR Customer Class

	Commercial Delivery Charge Offs	Industrial Delivery Charge Offs	Total C&I Delivery Charge Offs
	(5000's)		
Historic delivery charge offs for Customers on Competitive Supply: \$	125 \$	250 \$	375 (k)
Percentage of each class' delivery charge offs of the total:	33.33%	66.67%	100.00% (1) = [(k) customer class / (k) Total]
Allocated ESCO Non-Residential Estimated Charge Offs: \$	191 \$	381 \$	572 (m) = (g) x (l) Total

	Commercial Delivery Revenue	Industrial Delivery Revenue	Total C&I Delivery Revenue
	(5000's)		
Historic delivery revenue for Customers on Competitive Supply: \$	70,000 \$	350,000 \$	420,000 (n)
Percentage of each class' delivery revenue of the total:	16.67%	83.33%	100.00% (o) = [(n) customer class / (n) Total]
Allocated ESCO Non-Residential Outstanding A/R: \$	3,833 \$	19,167 \$	23,000 (p) = (o) x (b) Total

Residential Transition Rate: Proxy	6.67% (q) = (1)
Commercial Transition Rate: Proxy	4.97% (r) = [(m) / (p)] for Commercial Class
Industrial Transition Rate:	1.99% (s) ^F [(m) / (p)] for Industrial Class