

**1. Agreement to Sell and Purchase Energy.** This is an agreement between Marathon Power, LLC ("Marathon") and the undersigned customer ("Customer"). The purpose of this Agreement is to authorize a change in Customer's Third Party Supplier. Customer agrees to obtain natural gas supply/electric supply service from Marathon. Subject to the Terms & Conditions of this Agreement, Marathon agrees to sell and deliver, and Customer agrees to purchase and accept the quantity of natural gas/electricity, as estimated by Marathon, necessary to meet Customer's requirements based upon consumption data obtained by Marathon or the delivery schedule of the Local Distribution Utility (the "LDC"). The amount of natural gas/electricity delivered under this Agreement is subject to change based upon data reflecting Customer's consumption obtained by Marathon or the LDC's delivery schedule. The LDC will continue to deliver the natural gas/electricity supplied by Marathon. Marathon is a Third Party Supplier licensed by the Board of Public Utilities under license numbers ESL-0105 and GSL-0105. Your LDC is your Electric Distribution Company ("EDC") and/or your Gas Distribution Company ("GDC").

**2. Term.** This Agreement shall commence as of the date Customer's notice regarding the change of TPS is deemed effective by the LDC, and shall continue for the period of time set forth on the first page of this Agreement (the "Initial Term"). Marathon will provide notice to Customer at least 30 days prior to the end of the term of this Agreement of the date upon which the term of this Agreement will end. If the service start date is delayed for any reason, through no fault of Marathon (blocked account, customer delay), then the end date will be adjusted to the originally intended service end date. Upon completion of the Initial Term this Agreement will automatically renew into a variable rate for 12 months and every 12 months thereafter, unless canceled in writing or unless Marathon sends Customer written notice of proposed changes to such terms in advance of the renewal date (the "Renewal Term"). Any such written notice will be sent at least 30 days and no more than 60 days prior to the renewal date, apprising Customer of any proposed changes in the terms and conditions of this Agreement and of the Customer's right to renew, terminate or renegotiate this Agreement. Such new terms will become effective by obtaining authorization through the methods set forth in applicable regulations or by obtaining customer's written consent. While receiving service on a month-to-month basis, Customer or Marathon may cancel or terminate this Agreement upon 30 days' advance written notice of termination to the other party.

**3. Pricing, Billing, and Termination.**

**NATURAL GAS:** Unless otherwise noted on the facing page of this agreement or agreed to in writing, the price for all natural

gas sold under this Agreement shall be a Variable Price which shall each month reflect the cost of natural gas (including commodity, fuel losses, capacity, storage and balancing) transportation to the Delivery Point, and other market-related factors, plus all applicable taxes, fees, charges or other assessments and Marathon's costs, expenses and margins; a Capped or Fixed price per therm shall include, in each case, all applicable taxes. For NYMEX+, the sum of the NYMEX market rate and the NYMEX + adder shown on the facing page of this agreement will be grossed up for applicable taxes. **ELECTRIC:** Unless otherwise agreed to in writing, the price for all electricity sold under this Agreement shall be a Variable Price per kWh which shall each month reflect the cost of electricity (including energy, UFE losses, capacity, balancing, settlement, and ancillaries), related transmission and distribution charges, and other market-related factors, plus all applicable taxes, fees, charges or other assessments and Marathon's costs, expenses and margins; or a Capped/Fixed/ Index+ price of \_\_ per kWh, plus, in each case, all applicable taxes. "Avoided Energy Cost" refers to a calculation, determined for the load zone applicable to the Customer. "Net energy metering" measures the reverse flow of electricity so as to register the difference between the electricity supplied to the Customer and the electricity provided to the Company by the Customer's generating equipment. Credits will be determined and applied by LDC, as appropriate, to each time period. Marathon is not responsible for reconciling net energy and/or applying net energy credits to the Customer or calculating the Customer's Avoided Energy Costs. The Customer must notify Marathon of their generation and net metering equipment, if any, prior to enrollment or, once enrolled, sixty (60) days written notification must be submitted to Marathon prior to installation of net metering equipment. Marathon reserves the right to modify your Rate or terminate this Agreement and recover costs, if any. Marathon will invoice Customer monthly for natural gas/electricity delivered under this Agreement, as measured by the LDC. The undersigned Customer agrees to pay each invoice in full within twenty (20) days of the invoice date. It is agreed that the entire outstanding balance shall become due and payable upon a default in payment of any invoice. If any invoice is not paid when due, Customer further agrees to pay (1) interest in the amount of 1.5% per month, which shall continue to accrue in collections, on any past due balance from the day of default (2) all costs of collection, including reasonable attorneys' fees (even if suit is filed) and reasonable collection agency fees, whether contingency- based fees or otherwise. Marathon may delay in enforcing its rights and/or accept late payments, partial payments or partial payments marked to the effect of "payment in full" without losing any of its rights under this Agreement or applicable law. In the event of failure to remit

payment when due as set forth in this Agreement, Marathon reserves the right to cease delivery of energy immediately if it is determined that Customer is not strictly adhering to these payment terms, and reserves the right to pursue and collect any and all damages from Customer for un-delivered energy from this Agreement. In the event of failure to remit payment when due, Marathon may terminate service under this Agreement in accordance with the provisions of Section 6 of this Agreement. A \$30 fee will be charged for all returned payments. For Capped//NYMEX+/Index+ price service if usage in any month exceeds the level of usage in the same month in the previous year ("Base Load") by twenty five percent or more, the Customer will be charged a variable price for all usage in excess of the Base Load and the Capped//NYMEX+ price for usage up to the Base Load. If the usage in any month falls by (25%) twenty five percent or more below the Base Load, the Customer will be charged the Capped/Fixed//NYMEX+/Index+ price for all usage and shall be charged for hedging, cash out costs or balancing costs related to the positive difference between the Base Load and actual consumption. Additionally, if there is a material adverse change in the business or financial condition of Customer (as determined by Marathon at its discretion) or if Customer fails to meet its obligations under this Agreement or pay or post any required security deposit, then, in addition to any other remedies that it may have, Marathon may terminate this Agreement in accordance with the provisions of Section 6 of this Agreement. If Customer terminates this Agreement prior to the end of the Initial or Renewal Term or if Marathon terminates this Agreement due to Customer's breach, the Customer shall pay Marathon as follows: Variable Rate contract - \$0; Fixed rate – if remaining term is less than 12 months - \$100.00; Fixed rate – if remaining term is greater than 12 months - \$200.00. Marathon does not guarantee savings with this enrollment. Customer has been advised of all risks associated by signing this contract. Transportation Adjustment Clause (TAC): Due to changes in the capacity release programs from the LDC, there may be a shift in the TAC charge. When implemented by the LDC, the charges will be shifted to the Customer's transportation bill to their supply portion. The contract rate quoted on this contract under "contract price" does not include the transfer in costs. These costs will be added to the supply charge. Marathon does not offer budget billing.

**4. Assignment.** Customer may not assign its interests in and delegate its obligations under this Agreement without the express written consent of Marathon. Marathon may sell, transfer, pledge, or assign the accounts, revenues, or proceeds hereof, in connection with any financing agreement and may assign this Agreement to another entity. Marathon will comply with applicable regulations and will notify

Customer in advance of any assignment. This agreement is the entire understanding between Marathon and the customer; no oral statements are effective.

**5. Information Release Authorization.** Customer authorizes Marathon to obtain and review "Customer Information" as said is defined in N.J.A.C. Section 14:2-1.2, which includes, but is not limited to, customer name, address, telephone number, usage habits or history, peak demand and payment history, and information regarding Customer's credit history from credit reporting agencies. This information may be used by Marathon to determine whether it will commence and/or continue to provide energy supply service to Customer and will not be disclosed to a third party unless required by law. Customer's execution of this Agreement shall constitute authorization for the release of this information to Marathon. This authorization will remain in effect during the Initial Term and any Renewal Term. Customer may rescind this authorization at any time by providing written notice thereof to Marathon or by calling Marathon at 1.888.779.7255. Marathon reserves the right to terminate this Agreement pursuant to the provisions of Section 6 of this Agreement in the event Customer rescinds the authorization.

**6. TPS Termination Rights.** The services provided by Marathon to Customer are governed by the Terms & Conditions of this Agreement. Marathon shall have the right to terminate this Agreement in the event of a breach of the term(s) of the Agreement by Customer, including, but not limited to, failure to remit payment as required under this Agreement. Marathon may cancel this Agreement at any time and for any reason. Marathon will provide at least 30 days' written notice prior to the termination of service and provide Customer with the opportunity to remedy the termination condition. A final bill will be rendered within thirty (30) days after the final scheduled meter reading or if access is unavailable, an estimate of consumption will be used in the final bill, which will be trued up subsequent to the final meter reading. Switching to a competitive TPS is not mandatory and Customer has the option of remaining with the LDC for basic gas supply service or basic electric generation service.

**7. Residential Customer Rights.** Customer will receive a confirmation notice of its choice of TPS, and Customer will have 7 calendar days from the date of such confirmation notice to contact the LDC and rescind its selection. This Agreement shall not be effective upon the residential Customer until the 7-day confirmation period has expired, and the Customer has not, directly or indirectly, rescinded the selection. There is no charge for the Residential Customer for starting or stopping gas or electricity supply service if done within the terms of this Agreement. A Residential Customer may terminate this Agreement, with 48 hours' notice without

penalty, as a result of relocation within or outside the LDC's franchise area, disability that renders the customer of record unable to pay for the TPS' service, and/or the customer of record's death. Switching to a LDC for basic gas or electric service. You may contact the LDC customer service at:

ACE	1-800-642-3780
JCP&L	1-800-662-3115
PSE&G	1-800-436-7734
RECO	1-877-434-4100
Etown	1-800-242-5830
NJNG	1-800-221-0051
SJG	1-888-766-9900

**8. Agency.** Customer hereby designates Marathon as agent to (a) arrange and administer contracts and service agreements between Customer and Marathon and between the interstate pipeline transporters of Customer natural gas supplies (b) nominate and schedule with the interstate pipeline the transportation of Customer's natural gas supplies to the Delivery Points and (c) aggregate Customer's natural gas supplies with such supplies of other customers served by Marathon to maintain qualification for LDC transportation service and resolve imbalances that may arise during the term of this Agreement. Marathon as agent for the Customer will schedule the delivery of adequate supplies of natural gas that meet the Customer's city gate requirements as established by the LDC and in response to information provided by the LDC. The Delivery Points will be the city gate stations of the LDC. Customer hereby designates Marathon as agent to (a) arrange and administer contracts and service agreements between Customer and Marathon and those entities including PJM engaged in the generation, transmission and delivery of Customer electricity supplies and (b) nominate and schedule with the appropriate entities including the LDC for the delivery of electricity to the Delivery Point. Marathon as agent for the Customer will schedule the delivery of adequate supplies of electricity that meet the Customer's requirements as established by the LDC and in response to information provided by the LDC. The Delivery Point for the electricity will be a point at the PJM Marathon load bus. These services are provided on an arm's length basis and market-based compensation is included in the price noted above.

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

**10. Warranty.** This Agreement, (including any enrollment form

and applicable attachments), as written makes up the entire Agreement between Customer and Marathon. Marathon makes no representations or warranties other than those expressly set forth in this Agreement, and Marathon expressly disclaims all other warranties, express, or implied, including merchantability and fitness for particular use.

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

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

**13. Marathon Contact Information.** Customer may contact Marathon's Customer Service Center at 1.888.779.7255, Monday to Friday 8:00 a.m. - 4:00 p.m. EST (contact center hours subject to change); or write to Marathon at 302 Main St., Paterson, NJ 07505.

**14. Dispute Resolution.** In the event of a billing dispute or a disagreement involving Marathon's service hereunder, the parties will use their best efforts to resolve the dispute. Customer should contact Marathon by telephone or in writing as provided above. When Marathon receives a customer complaint or inquiry via call center, email or regular mail, the representative will make a record of the complaint and apply a case number or other identifying feature. The representative will investigate the substance of the complaint or inquiry and provide a response to the customer within ten (10) days of receipt of the complaint or inquiry. If the customer is not satisfied with the resolution presented by the call center

representative, the representative will raise the complaint or inquiry with a supervisor, who will review the matter and respond to the customer within five (5) business days. If the Customer is not satisfied with the Marathon response, Marathon will advise the Customer that the Customer can contact the Board at 1.800.624.0241, to request an alternate dispute resolution procedure or file a formal complaint. Upon receipt of a complaint forwarded by the Board or other governmental agency, Marathon will respond within ten (10) days and in accordance with the direction provided by the Commission or other agency. Customer must pay the bill in full, except for the specific disputed amount, during the pendency of the dispute, and such payment shall be refunded if warranted by the final resolution of the complaint.

**15. Choice of Laws.** Venue for any lawsuit brought to enforce any term or condition of this Agreement or to construe the terms hereof shall lie exclusively in the State of New York. This Agreement shall be construed under and shall be governed by the laws of the State of New York without regard to the application of its conflicts of law principles. If any provision of the Agreement is held by a court or regulatory agency of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions shall continue in full force without being invalidated in any way.

**16. Taxes and Laws.** Except as otherwise provided in the Agreement or provided by law, all taxes of whatsoever kind, nature and description due and payable with respect to service provided under this Agreement, other than taxes based on Marathon's net income, shall be paid by Customer, and Customer agrees to indemnify Marathon and hold Marathon harmless from and against any and all such taxes. This Agreement is subject to present and future legislation, orders, rules, regulations or decisions of a duly constituted governmental authority having jurisdiction over this Agreement or the services to be provided hereunder. If Customer is tax exempt, Customer must furnish Marathon with an exemption certificates before services begin.

**17. Regulatory Changes.** This Agreement is subject to present and future legislation, orders, rules, regulations or decisions of a duly constituted governmental authority having jurisdiction over this Agreement or the services to be provided hereunder. If at some future date there is a change in any law, rule, regulation, tariff, or regulatory structure ("Regulatory Change") which impacts any term, condition or provision of this Agreement including, but not limited to price, Marathon shall have the right to modify this Agreement to reflect such Regulatory Change by providing 30 days' written notice of such modification to the Customer.

**18. Emergency Service.** The LDC will respond to leaks and

emergencies. In the event of the leak, service interruption, outage or other emergency, Customer should immediately call LDC and emergency personnel at:

ACE	1-800-833-7476
JCP&L	1-888-544-4877
PSE&G	1-800-436-7734
RECO	1-877-434-4100
Etown	1-800-492-4009
NJNG	1-800-427-5325
SJG	1-800-582-7060

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

**20. Rewards Program.** The Program is open to all current Marathon customers in good-standing, 18 years of age or older. Each Customer must enroll manually for the points program online at [www.mecny.com](http://www.mecny.com) – it will not be done automatically with the opening of an account. Points are earned post enrollment (not retroactively). Rewards points are earned based on payments received and are redeemable by current Customers within 12 months of being earned; points not used or redeemed prior to termination are forfeited upon the closing of the account. Marathon reserves the right to adjust credit or debit any points.

**21. Environmental Disclosure.** The NJ BPU requires all TPSs to make their environmental disclosures available to their customers. Marathon's disclosure can be found at: <http://mecny.com/NJ-EID-label-template.xlsx>.