

# RESIDENTS ENERGY

PO Box 400, Jamestown, NY 14702

1-888-828-7374



## COMBINED RESIDENTIAL AND SMALL NON-RESIDENTIAL SALES AGREEMENT

<<Customer Name>> <<Customer Address>>  
<<Contact Person>> <<Telephone Number>>  
<<LDC Name>> <<LDC Acct #:>>  
<<Service/Rate Class>>  
<<Gas, Electric / Gas and Electric>>

### CUSTOMER DISCLOSURE STATEMENT

| Price   | Variable   |
|---|--|
| How price is determined   | <p>Electric variable price shall each month reflect the cost to Residents Energy to obtain electricity on your behalf, including, but not limited to, energy, capacity, settlement, ancillaries and related transmission and distribution charges, plus all applicable taxes, fees, charges, or other assessments, and Residents Energy's costs, expenses and profit margins. If you choose the Premium Renewable Energy Product and you are a resident of the five boroughs of New York City, you will also pay a monthly fee of \$4.95/month (prorated as a daily fee).</p> <p>Gas variable price shall each month reflect the cost to Residents Energy to obtain natural gas on your behalf, including, but not limited to, commodity, capacity, storage, balancing, carbon offsets/credits and other green energy products, as applicable, and transportation to the Delivery Point, plus all applicable taxes, fees, charges, or other assessments, and Residents Energy's costs, expenses and profit margins. If you choose the Carbon Offset Gas Product and you are a resident of the five boroughs of New York City, you will also pay a monthly fee of \$4.95/month (prorated as a daily fee).</p> |
| Special Options   | <p>&lt;&lt;You have chosen the Basic Renewable Energy Product, which is a renewably sourced product that has a renewable mix that is at least 50% greater than the Renewable Energy Standard obligation for load-serving entities in any given compliance year under the New York Public Service Commission's Clean Energy Standard.&gt;&gt; &lt;&lt;You have chosen the Premium Renewable Energy Option. 100% of your electricity usage will be matched with renewable energy credits.&gt;&gt; &lt;&lt;You have chosen the Carbon Offset Gas Option.&gt;&gt;</p>  |
| Process customer may use to rescind the agreement without penalty | A residential customer may rescind by calling the toll-free number within 3 business days of receipt of the Sales Agreement.   |
| Amount of Early Termination Fee ("ETF") and method of calculation | No early termination fee for variable rate service.  |
| Amount of Late Payment Fee and method of calculation              | Failure to pay bills on time may result in a late payment fee of 1.5% or the amount otherwise provided for in the local distribution company's tariff.   |
| Provisions for renewal of the agreement                           | This agreement continues with a variable rate methodology until terminated by either party. For more details see Section 2 - Term.   |
| Guaranteed Savings  | This agreement does not offer guaranteed savings below the utility price and Residents Energy's price may be higher than the utility's price.  |
| Promotional Offer   | <<Details of Promotional Offer>>   |

## **RESIDENTS ENERGY, LLC – NEW YORK - TERMS & CONDITIONS – VARIABLE PRICE**

**1. Agreement to Sell and Purchase Energy.** This is an agreement between Residents Energy, LLC (“RESI”), an independent energy services company, and the customer (“Customer”) under which Customer shall initiate natural gas and/or electricity service and begin enrollment with RESI (the “Agreement”). Subject to the terms and conditions of this Agreement, RESI agrees to sell and deliver, and Customer agrees to purchase and accept the quantity of natural gas and/or electricity, as estimated by RESI, necessary to meet Customer’s requirements based upon consumption data obtained by RESI or the delivery schedule of the Local Distribution Company (the “LDC”). RESI is not affiliated with and does not represent the LDC. The amount of natural gas and/or electricity supplied under this Agreement is subject to change based upon data reflecting Customer’s consumption obtained by RESI or the LDC’s delivery schedule. The LDC will continue to deliver the natural gas and/or electricity supplied by RESI.

**2. Term.** This Agreement shall commence as of the date Customer’s notice regarding the change of Customer’s provider to RESI is deemed effective by the LDC and it shall continue with a monthly variable rate methodology until either Customer or RESI cancels or terminates this Agreement by providing 15 days’ notice of termination to the other party.

**3. Pricing, Billing, and Termination.** Unless otherwise agreed to in writing, the price for all natural gas sold under this Agreement shall be a variable price which each month shall reflect the cost to RESI to obtain natural gas on Customer’s behalf, including, but not limited to, commodity, capacity, storage, balancing and transportation to the Delivery Point, plus all applicable taxes, fees, charges, or other assessments, and RESI’s costs, expenses and profit margins.

Unless otherwise agreed to in writing, the price for all electricity sold under this Agreement shall be a variable price which each month shall reflect the cost to RESI to obtain electricity on Customer’s behalf, including, but not limited to, energy, capacity, settlement, ancillaries and related transmission and distribution charges, plus all applicable taxes, fees, charges, or other assessments, and RESI’s costs, expenses and profit margins.

If there is a material adverse change in the business or financial condition of Customer (as determined by RESI 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, RESI may terminate this Agreement upon 15 days’ notice to Customer.

RESI will invoice Customer monthly for natural gas and/or electricity supplied under this Agreement, as measured by the LDC, and Customer will pay each invoice in full within 20 days of the invoice date. Failure to pay on time may result in a late payment charge of 1.5%, or the amount otherwise provided in the LDC’s tariff. Customer may receive a single bill for both commodity and delivery costs from either RESI or the LDC, or each of the LDC and RESI may invoice Customer separately. Customer payments remitted in response to a consolidated bill shall be pro-rated (when so required) in accordance with procedures adopted by the New York State Department of Public Service (the “DPS”). RESI may assign and sell Customer accounts receivable to the LDC. In the event of failure to remit payment when due by a residential customer, RESI may terminate commodity service and seek suspension of distribution service in conformance with the Home Energy Fair Practices Act (“HEFPA”). A \$20 fee will be charged for all returned payments.

**4. Assignment.** Customer may not assign its interests in or delegate its obligations under this Agreement without the express written consent of RESI. RESI may sell, transfer, pledge, or assign the accounts, revenues, or proceeds hereof, in connection with any financing agreement or receivables purchase program, and may assign this Agreement to another energy supplier, energy services company or other entity as authorized by the DPS with 30 days’ written notice to Customer.

**5. Information Release Authorization.** Customer authorizes RESI to obtain and review information regarding Customer’s credit history from credit reporting agencies and the following information from the LDC: consumption history; billing determinants; account number; credit information; public assistance status; participation in utility low income discount programs; existence of medical emergencies, status as to whether Customer has a medical emergency, is human needs, elderly, blind or disabled and data applicable to cold weather periods under PSL § 32 (3); and information pertaining to PSL § 33, tax status and eligibility for economic development or other incentives. This information may be used by RESI 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 RESI. This authorization will remain in effect until this Agreement is terminated by Customer or RESI. Customer may rescind this authorization at any time by providing written notice thereof to RESI or by calling RESI at 1-888-828-7374. RESI reserves the right to cancel this Agreement in the event Customer rescinds the authorization.

**6. Consumer Protections.** The services provided by RESI to Customer are governed by the terms and conditions of this Agreement and HEFPA for residential customers. RESI will provide at least 15 days’ notice prior to the cancellation of service to Customer. A residential Customer may be subject to termination of commodity service and the suspension of distribution service under procedures approved by the DPS. Customer may obtain additional information by contacting RESI at 1-888-828-7374 or the DPS at 1-800-342-3377 (General Helpline), or by writing to the DPS at: New York State

Department of Public Service, Office of Consumer Services, Three Empire State Plaza, Albany, New York 12223, or through its website at: <http://www.dps.ny.gov>.

**7. Cancellation.** A residential Customer may rescind this Agreement within 3 business days after the signing or receipt of this Agreement, whichever comes first, by contacting RESI at 1-888-828-7374 or in writing. Customer is liable for all RESI charges after rescission, cancellation or termination until Customer returns to the LDC in accordance with its rules or goes to another supplier. A final bill will be rendered within twenty (20) days after the final scheduled meter reading or if access is unavailable, an estimate of consumption will be used in the final bill, which will be trued up subsequent to the final meter reading.

**8. Agency-Gas.** Customer hereby designates RESI as agent to; (a) arrange and administer contracts and service agreements between Customer and RESI and between the interstate pipeline transporters of Customer's natural gas supplies; (b) nominate and schedule with the interstate pipeline the transportation of Customer's natural gas supplies from the Sales Point to the Delivery Points, and with the LDC for the transportation of the Customer's natural gas supplies from the Delivery Points to the Customer's end-use premises; and (c) aggregate Customer's natural gas supplies with such supplies of other customers served by RESI to maintain qualification for LDC transportation service and resolve imbalances that may arise during the term of this Agreement. RESI 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 Sales Point for the natural gas supplies provided under this Agreement will be a point or points located outside the State of New York as selected from time to time by RESI to assure service reliability. The Delivery Points for the natural gas transported by interstate pipelines will be the city gate stations of the LDC. RESI agrees to arrange for the transportation of the natural gas supplied under this Agreement from the Sales Points to the Delivery Points and from the Delivery Points to the Customer's end-use premises. These services are provided on an arm's length basis.

**Agency-Electric:** Customer hereby designates RESI as agent to; (a) arrange and administer contracts and service agreements between Customer and RESI and those entities, including the New York Independent System Operator ("NYISO"), engaged in the generation, transmission and delivery of Customer's electricity supplies; and (b) nominate and schedule with the appropriate entities, including the LDC, for the delivery of electricity to the Sales Point(s) and the Customer's end-use premises. RESI, 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 Sales Points for the electricity will be a point at the NYISO RESI load bus (located outside of the municipality where Customer resides). These services are provided on an arm's length basis.

**9. Title:** Customer and RESI agree that title to, control of, and risk of loss to the electricity and natural gas supplied by RESI under this Agreement shall transfer from RESI to Customer at the Sales Point(s). Customer will be liable for and pay all taxes or surcharges, which are imposed with respect to the sale of the natural gas or electricity. If Customer is exempt from such taxes, Customer is responsible for identifying and requesting any exemption from the collection of the taxes by filing appropriate documentation with RESI.

**10. Warranty.** This Agreement, including any enrollment form and applicable attachments, makes up the entire Agreement between Customer and RESI. RESI makes no representations or warranties other than those expressly set forth in this Agreement, and RESI EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING MERCHANTABILITY AND FITNESS FOR A PARTICULAR USE.

**11. Force Majeure.** RESI will make commercially reasonable efforts to provide natural gas and/or electricity hereunder but RESI does not guarantee a continuous supply of natural gas and/or electricity to Customer. Certain causes and events out of the control of RESI ("Force Majeure Events") may result in interruptions in service. In the event that RESI is rendered unable, wholly or in part, to perform its obligations under this Agreement due to events not reasonably anticipated or within either party's control, RESI will not be liable for any interruptions caused by a Force Majeure Event, and RESI is not and shall not be liable for damages caused by Force Majeure Events. Force Majeure Events shall include, but not be limited to, fire, flood, storm, terrorism, war, civil disturbance, accidents, strikes, labor disputes or problems, required maintenance work, inability to access the local distribution utility system, curtailment by the LDC of RESI's transportation capacity, the LDC's appropriation of natural gas, non-performance by the LDC (including, but not limited to, a facility outage on its gas distribution lines or electric facilities), or any other cause beyond RESI's control.

**12. Limitation of Liability.** TO THE FULLEST EXTENT PERMITTED BY APPLICABLE NEW YORK LAW, NEITHER CUSTOMER NOR RESI WILL BE LIABLE TO THE OTHER FOR ANY CONSEQUENTIAL, EXEMPLARY, PUNITIVE, INCIDENTAL, OR INDIRECT DAMAGES ARISING FROM ANY CLAIM OR LEGAL PROCEEDING BETWEEN CUSTOMER AND RESI, INCLUDING, WITHOUT LIMITATION, LOST PROFITS OR LOST REVENUES. THE REMEDY FOR ANY CLAIM OR SUIT AGAINST RESI WILL BE LIMITED TO DIRECT ACTUAL DAMAGES, WHICH SHALL NOT EXCEED THE AMOUNT OF CUSTOMER'S SINGLE LARGEST MONTHLY INVOICE DURING THE PRECEDING 12 MONTHS. CUSTOMER SHALL NOT PURSUE OR RECOVER ANY ADDITIONAL DAMAGES OR AMOUNTS FROM RESI, AND HEREBY WAIVES ALL OTHER REMEDIES IN LAW OR EQUITY. THESE LIMITATIONS APPLY WITHOUT

REGARD TO THE CAUSE OF ANY LIABILITY OR DAMAGES. CUSTOMER AND RESI ACKNOWLEDGE THAT THERE ARE NO THIRD-PARTY BENEFICIARIES TO THIS AGREEMENT.

**13. Indemnification.** Customer is responsible for and will indemnify RESI against any and all liabilities resulting from Customer's failure to fully comply with this Agreement, and from any damage or injury caused by the electricity and/or natural gas after its delivery to the Sales Point(s).

**14. Severability.** Should any part of this Agreement be declared invalid for any reason, such decision shall not in any manner affect the validity of the remaining portion of this Agreement, which shall remain in full force and effect as if the part determined to be invalid had not been contained herein at the time of the execution of this Agreement.

**15. Change in Law.** If at some future date there is a change in any law, order, rule, regulation, or state-approved tariff whereby RESI is prevented, prohibited, or frustrated from carrying out the terms of the Agreement, then, at the sole discretion of RESI, this Agreement may be cancelled. If, at some future date there is a change in any law, order, rule, regulation, or state-approved tariff affecting RESI's costs to purchase electricity and/or natural gas required to provide service, then, at the sole discretion of RESI, this Agreement may be modified to reflect those costs.

**16. Modification.** RESI may supplement, modify, or amend the non-material terms of this Agreement upon at least 30 days prior written notice to Customer. Such amended Agreement will supersede any previous agreement between Customer and RESI. Upon receipt of written notice pursuant to this Section, Customer may cancel the Agreement at any time prior to the commencement of the next billing cycle by providing written notice to RESI.

**17. RESI Contact Information.** Customer may contact RESI's Customer Service Center at 1-888-828-7374, Monday through Friday 9:00 a.m. - 5:00 p.m. EST (contact center hours subject to change). Customer may write to RESI at Residents Energy, PO Box 400, Jamestown, NY 14702 or email RESI at [contactus@residentsenergy.com](mailto:contactus@residentsenergy.com).

**18. Arbitration of Disputes, Waiver of Jury Trial, and Participation in Class Actions.** ANY COMPLAINT, CLAIM, OR DISPUTE BETWEEN RESI AND CUSTOMER, WHETHER ARISING IN ANY CONTRACT, STATUTE, REGULATION, TORT, OR OTHERWISE, SHALL, AS THE SOLE AND EXCLUSIVE REMEDY OF RESI AND CUSTOMER, BE DECIDED BY FINAL AND BINDING ARBITRATION UNDER THE CONSUMER ARBITRATION RULES OF THE AMERICAN ARBITRATION ASSOCIATION ("AAA") AND PURSUANT TO THE FEDERAL ARBITRATION ACT ("FAA"), 9 U.S.C. § 1 ET. SEQ., AND SHALL BE VENUED EXCLUSIVELY IN THE STATE OF NEW YORK AND THE COUNTY WHERE SERVICES ARE BEING PROVIDED UNDER THIS AGREEMENT, OR WHERE RESI AND CUSTOMER MUTUALLY AGREE. ANY SUCH COMPLAINTS, CLAIMS, OR DISPUTES SHALL PROCEED ONLY IN ARBITRATION AND ONLY ON AN INDIVIDUAL BASIS. THE ARBITRATOR'S DECISION SHALL BE FINAL AND BINDING AND MAY BE ENTERED INTO JUDGMENT IN ANY COURT OF COMPETENT JURISDICTION. RESI AND CUSTOMER SHALL NOT BE PERMITTED TO JOIN OR CONSOLIDATE COMPLAINTS, CLAIMS, OR DISPUTES INVOLVING OTHERS, NOR SHALL ANY COMPLAINTS, CLAIMS, OR DISPUTES BE BROUGHT OR MAINTAINED AS A CLASS ACTION OR IN ANY REPRESENTATIVE CAPACITY.

**BY AGREEING TO BINDING ARBITRATION, RESI AND CUSTOMER UNDERSTAND AND AGREE THAT THEY ARE KNOWINGLY, VOLUNTARILY, AND WILLINGLY WAIVING THE RIGHT TO SUE OR SEEK RELIEF OR HAVE ANY COMPLAINTS, CLAIMS, OR DISPUTES ADJUDICATED IN ANY COURT OF LAW, ADMINISTRATIVE PROCEEDING, OR ANY OTHER FORUM, WHETHER THOSE COMPLAINTS, CLAIMS, OR DISPUTES ARISE OR ARE BASED IN ANY CONTRACT, STATUTE, REGULATION, TORT, OR OTHERWISE. RESI AND CUSTOMER UNDERSTAND AND AGREE THAT THEY ARE KNOWINGLY, VOLUNTARILY, AND WILLINGLY WAIVING THE RIGHT TO A TRIAL BY JURY. RESI AND CUSTOMER UNDERSTAND AND AGREE THAT THEY ARE KNOWINGLY, VOLUNTARILY, AND WILLINGLY WAIVING THE RIGHT TO PARTICIPATE IN OR BE REPRESENTED IN ANY CLASS ACTION OR CLASS ARBITRATION.**

NOTWITHSTANDING THE FOREGOING, THIS PARAGRAPH DOES NOT PREVENT CUSTOMER FROM FILING A COMPLAINT RELATING TO CUSTOMER'S ELECTRIC AND/OR NATURAL GAS SUPPLY SERVICE WITH RESI PURSUANT TO THE LAWS GOVERNING RETAIL ELECTRIC AND/OR NATURAL GAS SUPPLIERS IN CUSTOMER'S STATE AND THE REGULATIONS OF ANY AGENCY IN CUSTOMER'S STATE WITH JURISDICTION OVER RETAIL ELECTRIC AND/OR NATURAL GAS SUPPLIERS. HOWEVER, ANY COMPLAINTS, CLAIMS, OR DISPUTES SUBMITTED TO SAID AGENCY REMAIN OTHERWISE SUBJECT TO THE PROVISIONS OF THIS PARAGRAPH, INCLUDING, BUT NOT LIMITED TO, THE AGREEMENT TO SUBMIT ALL COMPLAINTS, CLAIMS, OR DISPUTES, WHETHER ARISING OR BASED IN ANY CONTRACT, STATUTE, REGULATION, TORT, OR OTHERWISE, TO BINDING AND FINAL ARBITRATION; THE KNOWING, VOLUNTARY, AND WILLING WAIVER OF THE RIGHT TO SUE OR SEEK RELIEF IN ANY COURT OF LAW, ADMINISTRATIVE PROCEEDING, OR ANY OTHER FORUM; THE KNOWING, VOLUNTARY, AND WILLING WAIVER OF THE RIGHT TO A JURY TRIAL; AND THE KNOWING, VOLUNTARY, AND WILLING WAIVER OF THE RIGHT TO PARTICIPATE OR BE REPRESENTED IN ANY CLASS ACTION OR CLASS ARBITRATION.

**19. 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.

**20. 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 RESI's net income, shall be paid by Customer, and Customer agrees to indemnify RESI and hold RESI harmless from and against any and all such taxes.

**21. Emergency Service.** The LDC will continue to respond to leaks and emergencies. In the event of a gas leak, service interruption or other emergency, Customer should immediately call the LDC at Con Edison 1-800-75CONED; Orange and Rockland at 1-877-434-4100; KeySpan 718-643-4050 (NYC) and 1-800-490-0045 (Long Island); Niagara Mohawk at 1-800-892-2345; Central Hudson at 1-800-527-2714; RG&E at 1-800-743-1701; NYSEG at 1-800-572-1131; National Fuel at 1-800-444-3130 and emergency personnel. Customer should then call RESI at: 1-888-828-7374.

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

**23. Renewable Energy.** RESI's Basic Renewable Energy Product, is a renewably sourced product that has a renewable mix that is at least 50% greater than the Renewable Energy Standard obligation for load-serving entities in any given compliance year under the New York Public Service Commission's Clean Energy Standard. RESI's Premium Renewable Energy Product, is a 100% renewably sourced product. RESI may satisfy its renewability commitments by purchasing and retiring renewable energy credits (RECs) from any renewable energy resource that satisfies the definition of "renewable" under the Climate Leadership and Community Protection Act. Recognized technologies include, solar thermal, photovoltaics, on land and offshore wind, hydroelectric, geothermal electric, geothermal ground source heat, tidal energy, wave energy, ocean thermal, and fuel cells which do not utilize a fossil fuel resource in the process of generating electricity. Election of either of the renewable energy products supports the development of renewable resources, but Customer understands and acknowledges that Customer may not actually be supplied with renewable energy. Residents of the five boroughs of New York City will be charged an additional monthly fee of \$4.95/month (prorated as a daily fee) for the Premium Renewable Energy Product.

**24. Carbon Offset Gas Product:** If Customer chooses the Carbon Offset Gas Product, RESI will purchase carbon offsets and/or carbon credits to match 100% of Customer's natural gas consumption (at a rate of 1 metric ton of offsets/credits per 188.6 therms of natural gas supplied). RESI may take up to 12 months following each calendar year in which this Agreement is in effect to address any deficiency in the carbon offsets/credits purchased. Residents of the five boroughs of New York City will be charged an additional monthly fee of \$4.95/month (prorated as a daily fee) for the Carbon Offset Gas Product.

**25. Rebate Programs.** From time-to-time RESI may offer a rebate program for new customers who enroll with RESI and maintain active accounts with RESI for a specified period of time. To be eligible to earn a rebate under any such rebate program, Customer will have 60 days to complete a validation process in accordance with the instructions that will be provided to Customer. Customer will also have to be an active customer of RESI, in good standing, at the time the rebate is to be issued in order to qualify for the rebate. Rebate amounts appearing in RESI's advertising materials or presented orally to potential customers are merely examples of rebate amounts that customers might be eligible to receive. The actual amount of any rebate will be computed by reference to Customer's actual usage over the term of this Agreement, which may vary substantially from any estimate provided. Any rebate earned by Customer will be sent to Customer at the address provided by Customer during the validation process. Rebates can be issued in a variety of forms including, but not limited to, checks, stored-value cards, or electronic gift cards. Stored-value cards and electronic gift cards will be issued by an issuing bank, pursuant to a direct relationship between Customer and the issuing bank and will be subject to the terms and conditions of a Cardholder Agreement. Stored-value cards and electronic gift cards will expire 6 months after issuance.

**By signing below, Customer acknowledges that he/she has received copies of the Customer Disclosure Statement, Terms and Conditions, and ESCO Consumer Bill of Rights and is choosing Residents Energy as his/her new supplier of electricity and/or natural gas, subject to acceptance by Residents Energy and subject to the foregoing Terms and Conditions. (In the case of telephonic or electronic enrollment execution shall be deemed provided pursuant to the methods authorized under the New York Uniform Business Practices.)**

Customer Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Date: \_\_\_\_\_