



**ASCENERGY SERVICES, INC.**  
**A GAS & ELECTRIC SUPPLIER**

Tel. 631-750-5200 Fax. 631-750-6063  
 Toll Free. 877-753-6749  
 1595 Ocean Ave. Suite A12  
 Bohemia, NY 11716  
 www.ascenergysolutions.com

**Commercial Sales Agreement**

Business Name: \_\_\_\_\_ EIN/Tax Id # \_\_\_\_\_

Billing Address: \_\_\_\_\_

Contact: \_\_\_\_\_ Title: \_\_\_\_\_ E-Mail: \_\_\_\_\_

Telephone: \_\_\_\_\_ Cell: \_\_\_\_\_ Fax: \_\_\_\_\_

Sales Tax Exempt:  Yes (If Yes, exemption form must be provided and sent to [info@ascenergyservices.com](mailto:info@ascenergyservices.com))

Agreement: Gas  Electric  Gas Utility \_\_\_\_\_ Electric Utility \_\_\_\_\_

Initial Term: Number of months month to month Starting on or about \_\_\_\_\_ Start date may not be same as per utility

<p><u>Gas Prices (net of any applicable taxes)</u></p> <p><input type="checkbox"/> Monthly NYMEX plus fixed adder <u>\$.1699</u> Per therm</p> <p><input type="checkbox"/> Monthly Variable Rate Per Therm</p> <p><input type="checkbox"/> Fixed _____ Per therm</p>	<p><u>Electric Prices (net of any applicable taxes)</u></p> <p><input type="checkbox"/> Fixed _____ Per KwHr</p> <p><input type="checkbox"/> Monthly Variable Rate Per KwHr</p> <p><input type="checkbox"/> Fixed _____ Per KwHr includes renewable costs</p>
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Properties to be Serviced See Attached  Utility Account Numbers

\_\_\_\_\_  
 \_\_\_\_\_

**CUSTOMER DISCLOSURE STATEMENT**

<b>Gas Price</b>	<p><b>NYMEX Plus \$ .1699 fixed adder per therm Fixed Rate of \$ _____ per therm</b></p> <p>Variable rate shall reflect each month the wholesale cost of natural gas (including commodity, capacity, storage and balancing), transportation to the Delivery Point, and other market-related factors, plus all applicable taxes, fees, expenses and margins.</p> <p>Should a Force Majeure Event or a change in law , statute, regulation, or tariff cause ASC Energy to incur additional costs in providing Buyer with its Energy requirements hereunder due to increased costs, fees and/or penalties charged to ASC by its suppliers or the Utility , then ASC may charge any such additional costs, fees, and/or penalties to Buyer without profit to ASC, after providing Buyer with reasonable notice of such charges. See sections 5 &amp; 8 herein</p>
<b>Electric Price</b>	<p><b>Fixed Rate of \$ _____ per KwHr</b></p> <p>Variable rate shall reflect each month the wholesale cost of electric (including commodity, capacity, storage and balancing), transportation to the Delivery Point, and other market-related factors, plus all applicable taxes, fees, expenses and margins.</p> <p>Should a Force Majeure Event or a change in law , statute, regulation, or tariff cause ASC Energy to incur additional costs in providing Buyer with its Energy requirements hereunder due to increased costs, fees and/or penalties charged to ASC by its suppliers or the Utility , then ASC may charge any such additional costs, fees, and/or penalties to Buyer without profit to ASC, after providing Buyer with reasonable notice of such charges. See sections 5 &amp; 8 herein</p>
<b>Initial Term</b>	<p>Unless otherwise noted, the term of this Agreement shall be for an initial period of <u>month to month</u></p>

<b>Rescind Process</b>	A non-residential retail customer may rescind this agreement without penalty by calling the 1-877-753-6749 within 3 business days of receipt of the sales agreement.
<b>Amount of Early Termination Fee ("ETF") and method of calculation</b>	No early termination fee for variable rate service. If fixed rate service the projected amount of natural gas and/or electricity to be consumed by you for the remainder of the current Term multiplied by the difference between the fixed price in effect for the remainder of the current Term and the price at which ASC can sell such gas and/or electricity following the termination; However, for all residential customers and commercial customers solicited through door-to-door marketing, the ETF will be no greater than \$100 if the remaining term is less than 12 months and \$200 if the remaining term is 12 months or more.
<b>Late Payment Fee</b>	1.5% per month on overdue balances
<b>Renewal of the agreement</b>	After Initial Term, unless otherwise agreed to, renews on a month to month basis at a variable rate methodology until terminated by either party. For more details see Section 2 - Term.
<b>Guaranteed Savings</b>	This Agreement does not guarantee savings.

This sale is subject to the terms and conditions set forth on both sides of the Agreement and is not binding upon ASC Energy Services until the same has been approved and accepted by an officer of ASC Energy Services. I/We hereby acknowledge that the terms of sale as indicated on the reverse side are clearly understood by me/us, and everything that I/we have stated in this application is correct to the best of my/our knowledge. ASC is authorized to check my/our credit. Electronic and Faxed signatures are deemed acceptable for all purposes. **I/We have read and agree to the terms set forth herein and have retained a copy of same and acknowledge that I/we are agreeing to initiate service and begin enrollment by signing this Agreement. I/We have been provided a copy of the ESCO Consumers Bill of Rights.**

Buyer Signature \_\_\_\_\_

ASC Energy Signature \_\_\_\_\_

Print Name \_\_\_\_\_

Print Name \_\_\_\_\_

Title \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

Date \_\_\_\_\_

## **New York State Public Service Commission Consumer Bill of Rights**

Customers can purchase energy from an Energy Services Company (ESCO) or from a traditional utility. If you choose to purchase energy from an ESCO you are entitled to:

- A clear description of the services offered by the ESCO.
- Receive energy delivery and 24-hour emergency services from your utility company.
- Clear procedures for switching energy suppliers, including information about the enrollment process.
- Disclosure, in simple and clear language, of the terms and conditions of the agreement between you and the ESCO including: price and all variable charges or fees; length of the agreement; terms for renewal of the agreement; cancellation process and any early termination fees, which are limited by law; and conditions, if any, under which the ESCO guarantees cost savings.
- Rescind an agreement with an ESCO within three days of receiving the agreement, if you are a residential customer.
- A description of how pre-payment agreements work, if offered.
- Notice from the ESCO, no less than thirty days prior to the contract renewal date, of the renewal terms and the options you have as a customer. A fair and timely complaint resolution process.
- Provision of any written documents (contracts, marketing materials, and this ESCO Consumer Bill of Rights), in the same language used to enroll you as a customer.

If you are a residential customer you are also entitled to the rights and protections of the Home Energy Fair Practices Act (HEFPA) which requires that all utility customers be treated fairly with regard to application for service, customer billing, and complaint procedures. For more information go to [www.dps.ny.gov/resright.html](http://www.dps.ny.gov/resright.html).

ESCOs that do not assure these consumer rights could lose their eligibility to provide service in New York. Please report any complaints to the Department of Public Service at 1-800-342-3377 (8:30 am - 4:00 pm), by mail at Office of Consumer Services, NYS Department of Public Service, 3 Empire State Plaza, Albany, NY 12223, or online at [www.dps.ny.gov](http://www.dps.ny.gov).

You can find more information about your energy alternatives by visiting: [www.askpsc.com](http://www.askpsc.com)



**ASCENERGY SERVICES, INC.**  
A GAS & ELECTRIC SUPPLIER

**1. Agreement to Sell and Purchase Energy.** This is an agreement between ASC Energy Services (“ASC”) an independent energy services company, and the undersigned customer (“Customer”) under which Customer shall initiate natural gas and/or electricity service and begin enrollment with ASC (the “Agreement”). Subject to the terms and conditions of this Agreement, ASC agrees to sell and deliver, and Customer agrees to purchase and accept the quantity of natural gas and/or electricity, as estimated by ASC, necessary to meet Customer’s requirements based upon consumption data obtained by ASC or the delivery schedule of the Local Distribution Utility (the “LDC”). ASC 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 ASC or the LDC’s delivery schedule. The LDC will continue to deliver the natural gas and/or electricity supplied by ASC.

**2. Term.** For Variable Rate service this Agreement shall commence as of the date Customer’s notice regarding the change of Customer’s provider to ASC is deemed effective by the LDC and shall continue for 30 days thereafter (the “Initial Term”). Unless otherwise agreed to, upon completion of the Initial Term, this Agreement will renew on a month-to-month basis with a monthly variable rate methodology with no change to the remaining terms. (the “Renewal Term”). When receiving service on a month-to-month basis, either party may cancel or terminate this Agreement by providing 30 days’ advance written notice of termination to the other party.

For Fixed Rate service this Agreement shall commence as of the date Customer’s notice regarding the change of Customer’s provider to ASC is deemed effective by the LDC and shall continue for 12 months thereafter (the “Initial Term”). Unless otherwise agreed to, upon completion of the Initial Term, this Agreement will renew on a month-to-month basis with a monthly variable rate methodology with no change to the remaining terms (the “Renewal Term”). At least 30 days and no more than 60 days prior to the renewal date, ASC will notify Customer in writing of the terms of renewal of this Agreement and of the Customer’s right to renew, reject or renegotiate this Agreement. Customer shall have 3 business days from receipt of the first billing statement of the Renewal Term to reject renewal terms and cancel the renewal agreement. While receiving service on a month-to-month basis, such notification will be provided only for the first renewal occurring at the end of the Initial term, and Customer or ASC may cancel or terminate this Agreement by providing 30 days’ advance written 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 [ N/A ] variable price per therm which each month shall reflect the wholesale cost of natural gas (including commodity tiers one and two, capacity and balancing), transportation to the Delivery Point and other market-related factors, plus all applicable taxes, fees, charges or other assessments and ASC’s costs, expenses and margins; [ X ] NYMEX plus \$.1699 per therm fixed adder that varies each month or [ ] a fixed price of \_\_\_\_ th plus, in each case, all applicable taxes. Excluded are all applicable customer sales taxes, utility storage and peaking demand charges, which are subject to change each new heating season. Unless otherwise agreed to in writing, the price for all electricity sold under this Agreement shall be a variable price which shall each month reflect the cost of electricity obtained from all sources (including energy, capacity, settlement, ancillaries), related transmission and distribution charges and other market-related factors, plus all applicable taxes, fees, charges or other assessments and ASC’s costs, expenses and margins; or [ ] a fixed price of \_\_\_\_\_ per kWh, plus in each case, all applicable taxes.

For fixed price service if usage in any month exceeds the level of usage in the same month in the previous year (“Base Load”) by ten percent or more, the Customer will be charged a variable price for all usage in excess of the Base Load and the fixed price for usage up to the Base Load. If the usage in any month falls by ten percent or more below the Base Load, the Customer will be charged the fixed price for all usage and shall be charged for hedging, cash out costs, settlement or balancing costs related to the positive difference between the Base Load and actual consumption. If there is a material adverse change in the business or financial condition of Customer (as determined by ASC 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, ASC may terminate this Agreement upon 15 days’ written notice to Customer. If Customer terminates this Agreement prior to the end

of the Initial or Renewal Term or if ASC terminates this Agreement due to Customer's breach, the Customer shall pay ASC, in addition to any other applicable charges, a cancellation fee equivalent to the multiplication of the (i) difference between the fixed price set forth in this Agreement and the calculation by ASC of the fixed price at the date of termination; and (ii) the estimated volumes for the remainder of the Initial or Renewal Term, as applicable, using the actual volumes received by Customer for the prior 12 month period as the volumes used in determining damages. Notwithstanding the foregoing, for all residential customers and commercial customers solicited through door-to-door marketing, the early termination fee will be no greater than \$100 if the remaining term is less than 12 months and \$200 if the remaining term is 12 months or more.

ASC 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 or be subject to a late payment charge of 1.5% per month. Customer may receive a single bill for both commodity and delivery costs from either ASC or the LDC, or each of the LDC and ASC 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"). ASC may assign and sell Customer accounts receivable to the LDC. In the event of failure to remit payment when due by a residential customer, ASC may terminate commodity service and seek suspension of distribution service in conformance with the Home Energy Fair Practices Act ("HEFPA"). Failure by a commercial customer to make full payment of ASC charges due on any consolidated bill prepared by the LDC for ASC will be grounds for disconnection of utility services in accordance with NYPSC rules and regulations on the termination of service to non-residential customers, 16 NYCRR Section 13.3. A \$30 fee will be charged for all returned payments.

**4. Assignment** Customer may not assign its interests in and delegate its obligations under this Agreement without the express written consent of ASC. ASC 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.

**5. Information Release Authorization.** Customer authorizes ASC 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; 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 ASC 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 ASC. 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 ASC or by calling ASC at 1.631.750.5200. ASC reserves the right to cancel this Agreement in the event Customer rescinds the authorization.

**6. Consumer Protections.** The services provided by ASC to Customer are governed by the terms and conditions of this Agreement and HEFPA for residential customers. ASC will provide at least 15 days' notice prior to the cancellation of service to Customer. In the event of non-payment of any charges owed to ASC, 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 ASC at 1.877.753.6749 or the DPS at 1-800-342-3377, or by writing to the DPS at: New York State Department of Public Service, Office of Consumer Services, Three Empire State Plaza, Albany, New York 12223, or through its website at: [www.dps.ny.gov](http://www.dps.ny.gov). You may also contact the Department for inquiries regarding the competitive retail energy market at 1.888.697.7728.

**7. Rescission.** A residential Customer may rescind this Agreement within 3 business days after the signing or receipt of this Agreement, whichever comes first, by contacting ASC at 1. 877.753.6749 or in writing. Customer is liable for all ASC charges until Customer returns to the LDC 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 ASC as agent to; (a) arrange and administer contracts and service agreements between Customer and ASC 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 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 ASC to maintain qualification for LDC transportation service and resolve imbalances that may arise during the term of this Agreement. ASC 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. ASC agrees to arrange for the transportation of the natural gas supplied under this Agreement from the Delivery Points to the Customer's end-use premises. These services are provided on an arm's length basis and market-based compensation is included in the price noted above.

**Agency-Electric:** Customer hereby designates ASC as agent to; (a) arrange and administer contracts and service agreements between Customer and ASC and those entities including the New York Independent System Operator ("NYISO") 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 and the Customer's end-use premises. ASC 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 Points for the electricity will be a point at the NYISO ASC load bus (located outside of the municipality where Customer resides). These services are provided on an arm's length basis and market-based compensation is included in the price noted above.

**9. Title.** Customer and ASC agree that title to, control of, and risk of loss to the natural gas supplied by ASC under this Agreement will transfer from ASC to Customer at the Delivery Point(s).

**10. Warranty.** This Agreement, including any enrollment form and applicable attachments, as written makes up the entire Agreement between Customer and ASC. ASC makes no representations or warranties other than those expressly set forth in this Agreement, and ASC expressly disclaims all other warranties, express or implied, including merchantability and fitness for a particular use.

**11. Force Majeure.** ASC will make commercially reasonable efforts to provide natural gas and/or electricity hereunder but ASC does not guarantee a continuous supply of natural gas and/or electricity to Customer. Certain causes and events out of the control of ASC ("Force Majeure Events") may result in interruptions in service. ASC will not be liable for any such interruptions caused by a Force Majeure Event, and ASC is not and shall not be liable for damages caused by Force Majeure Events. Force Majeure Events shall include acts of God, fire, flood, 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 or electric facilities), changes in laws, rules, or regulations of any governmental authority or any other cause beyond ASC's control.

**12. Liability.** The remedy in any claim or suit by Customer against ASC 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). All other remedies at law or in equity are hereby waived. In no event will either ASC 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. ASC Contact Information.** Customer may contact ASC's Customer Service Center at 1.631.750.5200, Monday through Friday 9:00 a.m. - 4:00 p.m. EST (contact center hours subject to change). Customer may write to ASC at: ASC Energy Service, Suite A12, 1595 Ocean Ave, Bohemia N. Y. 11716.

**14. Dispute Resolution (Residential).** In the event of a billing dispute or a disagreement involving ASC's service hereunder, the parties will use their best efforts to resolve the dispute. Customer should contact ASC by telephone or in writing as provided above. The dispute or complaint relating to a residential customer may be submitted by either party at any time to the DPS pursuant to its Complaint Handling Procedures ("Procedures") or calling the DPS at 1.800.342.3377. Customer must pay the bill in full, except for the specific disputed amount, during the pendency of the dispute, and such payment shall be refunded if warranted by the decision of DPS.

**Dispute Resolution (Commercial).** In the event of a billing dispute or disagreement involving ASC's service, Customer should contact ASC's Customer Service Center as provided above. Customer must pay the bill in full, except for the specific disputed amount, during the pendency of the dispute. If the parties cannot resolve the dispute within 45 days, either party may avail itself of all remedies available under law or equity. The DPS will not resolve Non Residential disputes associated with the services provided under this Sales Agreement. However, the DPS will monitor inquiries and contacts from Non-Residential customers regarding energy service companies and an excessive number of confirmed complaints may result in an energy service company no longer being eligible to supply natural gas or electricity in New York State. The DPS Office of Consumer Services can be reached at: New York State Public Service Commission, Office of Consumer Services, Three Empire State Plaza, Albany, New York 12223; or by visiting [www.dps.ny.gov](http://www.dps.ny.gov).

**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.

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

**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, ASC 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 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 1.800.527.2714; National Fuel at 1.800.444.3130 and emergency personnel. Customer should then call ASC at: 1.631.750.5200.

**19. Signatory Affirmation.** Signor affirms that he or she is authorized to make decisions regarding the account and voluntarily authorizes Supplier to make the enrollment. Customer agrees to accept all notifications by email to the email address provided at time of enrollment, or subsequently provided to ASC.

**20. Telephone Communication.** You agree that by accepting this Agreement and providing to (ESCO), its affiliates and/or assigns, your phone number, which can include a landline and or/mobile number, (ESCO), its affiliates and/or assigns may call and/or text you with autodialed and/or pre-recorded information.

**21. Forward Contract:** Each Party acknowledges that: (a) this Agreement is a forward contract and a master netting agreement as defined in the United States Bankruptcy Code (“Code”); (b) this Agreement shall not be construed as creating an association, trust, partnership, or joint venture in any way between the Parties, nor as creating any relationship between the Parties other than that of independent contractors for the sale and purchase of Commodities; (c) Seller is not a “Utility” as defined in the Code; (d) Commodity supply will be provided by Seller under this Agreement, but delivery will be provided by the Utility; and (e) the Utility, and not Seller, is responsible for responding to service problems or emergencies should they occur.

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

Customer and ASC have caused this Agreement to be executed as of the date noted above on the first page of this Agreement, by individuals authorized to bind each party, and Customer has reviewed all of the terms herein.

**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.**

**For: ASC Energy Service**

**For: Customer**

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
(Print Name)

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

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

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date \_\_\_\_\_

Date \_\_\_\_\_



## Addendum to Commercial Sales Agreement

This document is in reference to the base Sales Agreement dated \_\_\_\_\_, between Customer and ASC Energy Services, Inc.

BE IT KNOWN that the undersigned parties for good consideration, agree to make the changes and/or additions outlined below. These additions shall be as valid as if part of the original agreement.

ASC Energy Services, Inc. certifies that it is an approved New York State Energy Service Company (ESCO) and is professionally qualified to provide the Services in this agreement.

As an addition to the Assignment section (#4) – ASC will not assign a customer in the Diocese of Rockville program without their consent, which may not be unreasonably withheld.

As an addition to the Information Release Authorization section (#5) – ASC Energy states that if a customer is in the National Grid Purchase of Receivables program (POR) – meaning National Grid directly bills the customer for their monthly invoice, ASC will not run a credit check on said customer. If a customer is not in the POR program and ASC needs to directly bill the customer, then ASC will seek customers approval to run a credit a check if so desired.

ASC will not contract with or otherwise engage any contractor sub-contractor or other third party in connection with the performance of the Services under this Agreement without the prior written consent of Customer in each instance. Neither the use of any contractor, sub-contractor or third party by ASC nor Customer's consent thereto will relieve ASC of any of its obligations under this Agreement. ASC will indemnify and hold harmless Customer and the Diocese of Rockville Centre and their respective directors, officers, employees and agents from claims, demands and causes of action (including reasonable legal fees and disbursements) asserted by any contractor sub-contractor or third party claiming by or through ASC or claiming to have been engaged by ASC.

ASC and any subcontractor of ASC shall retain and make available for six years from the date of completing ASC's Services, the books, documents and records necessary to certify the nature and extent of the costs of ASC's Services, if requested by an authorized representative of Customer in writing.

As an addition to the termination rights set forth in the base Sales Agreement, Customer shall have the right to terminate this Agreement immediately, without notice, for any of the following reasons:

- (a) a breach by ASC of any term or condition of this Agreement including, but not limited to, the failure or inability of ASC to perform or provide the Services in a satisfactory and timely fashion, time being of the essence;
- (b) submission of an application or petition for the appointment of a receiver, trustee or liquidator of all or a substantial amount of ASC's assets by ASC;
- (c) ASC admits to or implies that it is unable to pay its debts as they become due;
- (d) entry of an order, judgment or decree by any court of competent jurisdiction on the application of a creditor adjudicating a petition seeking reorganization of ASC's debts, liabilities or obligations or all or a substantial part of its assets; or
- (e) ASC has assigned or attempted to assign this Agreement (in whole or in part) without Customer's prior written consent.

This Agreement (including any Exhibits or Schedules hereto) contains the entire understanding between the parties and supersedes any prior verbal or written agreement between the parties. No amendment or modification of this Agreement shall be valid, unless made in writing and signed by both parties.

Each of the parties to this Agreement hereby agrees to be subject to the exclusive jurisdiction of the federal and state courts located in the County of Nassau or Suffolk, State of New York with respect to this Agreement.

If any provision of this Agreement or the application of such provision to any person or circumstance shall be held to be invalid, the remainder of this Agreement or the application of such provision to the persons or circumstances other than those to which it is held invalid shall not be affected thereby.

ASC agrees to maintain in strict confidence and will not disclose, transfer or utilize (except solely in connection with the Services) all or any part of any information or data gathered from rendering the Services and/or performing the Work, and other confidential and proprietary information obtained by it with respect to or otherwise related to Customer without the prior written consent of Customer, in each instance. ASC shall take all steps to ensure that each of its directors, officers, agents, employees and/or independent contractors do not violate the terms of this provision.

Customer's name shall not be used or included on any list, or in any marketing materials, as a client of ASC, or any subcontractor of ASC, without the prior written consent of Customer. ASC shall include the foregoing restriction in any subcontract it may enter in connection with this Agreement.

No other terms or conditions of the agreement are negated or changed as a result of this addendum.

Signature \_\_\_\_\_

ASC Energy Signature \_\_\_\_\_

Print Name \_\_\_\_\_

Print Name \_\_\_\_\_

Title \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

Date \_\_\_\_\_