

**Baltimore Gas and Electric Company
Electricity Supplier Cash Collateral Agreement**

THIS ELECTRIC SUPPLIER CASH COLLATERAL AGREEMENT (“Agreement”) is made this ____ day of _____, 20__, by _____, a _____ corporation whose principal address is _____ (“Supplier”), in favor of Baltimore Gas and Electric Company (“BGE”), a Maryland corporation whose principal business office is located at 2 Center Plaza, 110 West Fayette St., Baltimore, Maryland 21201.

WHEREAS, BGE is prepared to accept the Supplier as an Electricity Supplier under the BGE Electricity Supplier Coordination Tariff (“Coordination Tariff”) in connection with the Supplier’s delivery of Competitive Power Supply in BGE’s service territory, pending certain items including a demonstration of Credit Resources; and

WHEREAS, BGE will accept Supplier only if payment of any fees, penalties, and other amounts owed by Supplier to BGE under the Coordination Tariff (including revisions to which may be approved from time to time by the Maryland Public Service Commission) is assured such as by a posting of cash collateral as a demonstration of Credit Resources by the Supplier; and

WHEREAS, Supplier is willing to provide such a posting of cash assuring payment of any fees, penalties, and other amounts owed by Supplier to BGE under the terms set forth below, and is receiving value for the posting of cash.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, which Supplier acknowledges constitutes adequate consideration for its obligations hereunder the Supplier agrees as follows:

1. Obligations of Supplier.

- a. Supplier is obligated to pay fees, penalties, and other amounts owed to BGE in regard to the above-referenced delivery of Competitive Power Supply as provided under the Coordination Tariff (or any successor schedules approved by the Maryland Public Service Commission).
- b. Supplier is providing, pursuant to this Agreement, an initial posting to BGE of \$25,000 as Credit Resources under the Coordination Tariff (the “Cash Collateral”). The Cash Collateral will be funded by wire under instructions provided by BGE. The amount of the Cash Collateral may change from time to time, pursuant to Paragraph 1(e). The Cash Collateral secures all of Supplier’s obligations to BGE arising out of the Coordination Tariff and this Agreement and any other obligation that Supplier may have to BGE from time to time, whether now existing or arising hereafter (the “Obligations”).
- c. With its funding, Supplier is simultaneously granting BGE a first-priority security interest in the Cash Collateral.

- d. Supplier shall not be discharged or released from its obligations under this Agreement by any proceeding, voluntary or involuntary, involving the bankruptcy, insolvency, receivership, reorganization, liquidation or arrangement of Supplier or by any defense which Supplier may have by reason of the order, decree or decision of any court or administrative body resulting from any such proceeding.
- e. Upon written demand from BGE for an increase in the amount of the funding of the Cash Collateral, Supplier shall provide such additional funds by wire as described in Paragraph 1(b) no later than the end of the second business day following the date of the demand.
- f. Supplier shall defend Supplier's title to the Cash Collateral and the security interest of BGE against the claims of any person claiming rights in the Cash Collateral.
- g. Supplier will pay to BGE, upon demand, any expenses, that BGE incurs in connection with the administration or enforcement of this Agreement, including any applicable bank fees and charges associated with holding the Cash Collateral in an account, the fees and disbursements of counsel, expenses incurred to preserve the value of the Cash Collateral and BGE's security interest, the exercise by BGE of any of its rights, or any action to enforce its rights under this Agreement, and such portion of Creditor's overhead as Creditor shall allocate to collection and enforcement of the Obligations in BGE's sole but reasonable discretion to the extent allowed by applicable law. Supplier will be allocated a pro rata share of fees and charges associated with holding the Cash Collateral in an account, including generally applicable account fees, as determined by BGE at its discretion.

2. Supplier's Rights.

- a. Supplier shall have no authority to direct or instruct BGE with respect to any activity whatsoever concerning the Cash Collateral, except as provided in this Agreement.
- b. BGE shall hold the Cash Collateral in any major U.S. commercial bank, or a foreign bank with a U.S. branch office, that has assets of at least \$5 billion and a credit rating of at least "A" by Standard and Poor's or "A2" by Moody's Investor Services ("Qualified Institution").
- c. Subject to BGE's right under Paragraph 3(d) to retain such interest to offset Obligations, Supplier shall be allocated interest paid on the Cash Collateral. The interest shall be calculated as a pro rata share of any interest paid by the Qualified Institution on funds in the account where the Cash Collateral is held. Interest shall be held by BGE consistent with Paragraph 2(b), and on a quarterly basis, or at other frequency chosen by BGE, accrued interest shall be applied to offset any expenses under Paragraph 1(g). All income, gain, expense and loss recognized in the Account shall be reported to taxing authorities under Supplier's name and taxpayer identification number. Supplier shall provide to BGE a complete W9 tax form, including Supplier's tax identification number.

3. BGE's Further Rights.

- a. BGE shall have the right at any time to make written demand on Supplier for payment of any and all Obligations, which are due and owing and remain unpaid. BGE is not required to make any written demand prior to a determination of default.
- b. BGE shall have the right, at its sole discretion, to commingle the Cash Collateral with BGE funds or segregate the Cash Collateral, though BGE shall keep the Cash Collateral reasonably identifiable.

- c. Supplier appoints BGE, its successors and assigns, as Supplier's agent and attorney-in-fact to carry out this Agreement and take any action or execute any instrument that BGE considers necessary or convenient for such purpose.
- d. Any cash held by BGE as Cash Collateral and all interest proceeds from the Cash Collateral may at any time be applied by BGE against all or any part of the Obligations in such order as BGE may elect. Supplier waives any right to prior notice of such application.
- e. This Agreement in no way limits Supplier's liability to BGE for any Obligations.

4. Representations and Warranties. Supplier represents and warrants to BGE that:

- a. This Agreement has been, or will be, duly executed and delivered by Supplier, constitutes Supplier's valid and legally binding obligations and is enforceable in accordance with their respective terms against Supplier.
- b. The execution, delivery and performance of this Agreement, the grant of the security interest in the Cash Collateral and the consummation of the transactions contemplated will not (i) violate any law applicable to Supplier, (ii) violate any judgment, writ, injunction or order of any court or governmental body or officer applicable to Supplier, (iii) violate or result in the breach of any agreement to which Supplier is a party, or (iv) violate any restriction on the transfer of any of the Cash Collateral.
- c. No consent, approval or authorization of any third party or any governmental body or officer is required for the valid and lawful execution and delivery of this Agreement, the creation and perfection of BGE's security interest in the Cash Collateral, or the valid and lawful exercise by BGE of remedies available to it under this Agreement or applicable law or of other rights granted to it in this Agreement.
- d. Supplier is the sole owner of the Cash Collateral, has the right to grant the security interest provided for herein to BGE and has granted to BGE a valid and perfected first priority security interest in the Cash Collateral free of all liens, encumbrances, transfer restrictions and adverse claims.

5. Events of Default. Supplier shall be in default and BGE shall have the rights and remedies of a secured party under Title 9 of the Uniform Commercial Code of the State of Maryland (the "Uniform Commercial Code"), in addition to any other remedies available to it under this Agreement or any other agreement, if Supplier (1) fails to pay or perform on any of the Obligations within 30 days of when the same become due and payable or performable, or (2) commits a material breach of this Agreement, including but not limited to a failure to provide additional funds under Paragraph 1(e).

6. Release of Cash Collateral.

- a. The security interest granted to BGE shall not terminate and BGE shall not be required to return the Cash Collateral to Supplier unless and until the Obligations have been fully paid or performed and Supplier has reimbursed BGE for any expenses of returning the Cash Collateral. If this condition is met and Supplier makes a written demand on BGE for return of the Cash Collateral, BGE shall return the Cash Collateral within 10 days, by certified check or wired money.

- b. In the event that the conditions of Paragraph (a) of this Section have not been satisfied, but the Supplier both (1) no longer has any commitment under this Agreement or the Coordination Tariff that could give rise to further Obligations and (2) has a lesser amount constituting Obligations than the Cash Collateral, the Supplier may request a partial release of the Cash Collateral. If so requested, BGE shall release the portion of the Cash Collateral in excess of the amount required to satisfy the Obligations.

7. **Agreement.** This Agreement and the agreements and instruments required to be executed and delivered hereunder set forth the entire agreement of the parties with respect to this subject matter and supersede all prior agreements (written or oral) and negotiations and all contemporaneous oral agreements concerning such subject matter and negotiations.

8. **Waiver.** Neither the failure of nor any delay by any party to this Agreement to enforce any right to demand compliance with its terms is a waiver of any right. No action taken pursuant to this Agreement on one or more occasions is a waiver of any right or constitutes a course of dealing that modifies this Agreement. No waiver of any right or remedy under this Agreement shall be binding on any party unless it is in writing and is signed by the party to be charged. No such waiver of any right or remedy under any term of this Agreement shall in any event be deemed to apply to any subsequent default under the same or any other term.

9. **Amendments.** No amendment, modification or termination of this Agreement shall be binding on any party unless it is in writing and is signed by the party to be charged.

10. **Severability.** If any term or provision set forth in this Agreement shall be invalid or unenforceable, the remainder of this Agreement, or the application of such terms or provisions to persons or circumstances, other than those to which it is held invalid or unenforceable, shall be construed in all respects as if such invalid or unenforceable term or provision were omitted.

11. **Successors.** The terms of this Agreement shall be binding upon Supplier, and Supplier's successors and assigns and shall inure to the benefit of BGE, its successors and assigns.

12. **Notices.** Any notice or other communication required or permitted to be given under this Agreement shall be in writing and deemed to have been given properly when delivered in person, or when sent by telecopy, electronic mail, or by other electronic means where electronic confirmation of error-free receipt is received, or 3 business days after being sent by certified or registered United States mail, return receipt requested, postage prepaid, addressed in the case of mail or electronic transmission or delivered in the case of personal delivery to the party at the address set forth next to such party's name at the top of this Agreement. Any party may change its address for notices in the manner set forth above.

13. **Choice of Law.** The validity, terms, performance and enforcement of this Agreement shall be governed by the internal laws of the State of Maryland.

14. **Jury Trial Waiver.** Supplier hereby unconditionally waives its rights to a jury trial for any claim or cause of action based upon or arising out of, directly or indirectly, this

agreement, any dealings between the parties relating to the subject matter hereof, and/or the relationship that is being established between the parties pursuant hereto. The scope of this waiver is intended to encompass any and all disputes in any court including, without limitation, contract, tort, and breach of duty claims, and all other common law and statutory claims. This waiver is irrevocable. In the event of litigation, this agreement may be filed as a written consent of Supplier to a trial by the court.

IN WITNESS WHEREOF, Supplier has executed or caused this Electric Supplier Cash Collateral Agreement to be executed under seal this _____ day of _____, 20____.

WITNESS:

SUPPLIER NAME:

By: (print name) _____, its

(print title) _____

STATE OF _____, _____ OF _____, TO WIT:

I HEREBY CERTIFY that on this _____ day of _____, 20____, before me, the undersigned Notary Public of _____, personally appeared _____, and acknowledged himself to be the _____ of _____, a _____ company, and that he, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of said company, by himself as _____ of said company.

IN WITNESS my hand and Notarial Seal.

My Commission Expires:

_____(SEAL)
Notary Public
