

Confidentiality Agreement

This Agreement is effective as of the ____ the day of _____, 2005 by and between Rochester Gas and Electric Corporation ("RG&E") and _____ (Supplier Company Name) (jointly "the Parties" and each individually "Party").

WHEREAS, _____ (Supplier Company Name) desires to participate in the RG&E Market Match Program;

WHEREAS, in order for _____ (Supplier Company Name) to participate in the Market Match Program, RG&E must provide to _____ (Supplier Company Name) certain non-public, confidential or proprietary information, including but not limited to customer account data;

WHEREAS, the Parties desire to reach an understanding with respect to the disclosure and protection of such information;

NOW THEREFORE, the Parties agree as follows:

- 1) For the purpose of this Agreement, unless the context indicates otherwise, the term "Confidential Information" means all information and data of RG&E revealed, directly or indirectly to _____ (Supplier Company Name) in connection with, related or pursuant to the Market Match Program, regardless of the form in which it appears, or under which it is communicated, all copies or recordings thereof, or other documents containing or reflecting such information (whether or not made in accordance with this Agreement).
- 2) _____ (Supplier Company Name) agrees that the Confidential Information it receives from RG&E is proprietary, the property of RG&E, and shall be kept strictly in trust and confidential. The Confidential Information shall not be sold, traded, duplicated, published or otherwise disclosed by _____ (Supplier Company Name) to anyone in any manner whatsoever.
- 3) Confidential Information does not include any information which:
 - a) was known to _____ (Supplier Company Name) prior to the date of its disclosure pursuant to this Agreement and to which there is no existing obligation of confidentiality; or
 - b) is or becomes generally available to the public other than through the act or omission of _____ (Supplier Company Name) or its Representatives; or
 - c) becomes available to _____ (Supplier Company Name) on a non-confidential basis from a source other than RG&E or its Representatives, provided that such source is not bound by a confidentiality agreement with RG&E or its Representatives or otherwise prohibited from transmitting such Confidential Information to _____ (Supplier Company Name) or _____ (Supplier Company Name's) Representatives by a contractual, legal or fiduciary obligation. As used in this Agreement, the term "Representative(s)" means, as to any person, such person's affiliates and its and their directors, officers, employees, shareholders, partners, agents, advisors (including without limitation, financial advisors, technical advisors, consultants, counsel and accountants) and controlling persons. As used in this Agreement, the term "person" shall be broadly interpreted to include, without limitation, the media and any corporation, company, partnership, individual or other entity.

- d) is independently developed by _____ (Supplier Company Name) or any of its affiliates without the use of or reliance upon the Confidential Information.
- 4) Except as required by law, rule or regulation, or as otherwise provided herein, unless otherwise agreed to in writing by RG&E, the _____ (Supplier Company Name) agrees (a) not to disclose or reveal any Confidential Information to any person and (b) not to use the Confidential Information for any purpose other than in connection with the Market Match Program.
- 5) In the event the _____ (Supplier Company Name) is legally requested or required (by oral questions, interrogatories, requests for information or documents, subpoena, civil investigative demand or similar process) to disclose any Confidential Information of RG&E, or if such disclosure is necessary in order to obtain or maintain regulatory or governmental approvals, applications, or exemptions, _____ (Supplier Company Name) will provide RG&E with notice, prior to disclosing such information, so that RG&E may seek an appropriate protective order and/or waive compliance with this Article. If, in the absence of a protective order or the receipt of a waiver hereunder, _____ (Supplier Company Name) is nonetheless advised by counsel that it is legally compelled to disclose such information or needs to disclose such information in order to obtain or maintain regulatory or governmental approvals, it may, without liability hereunder, furnish that portion of such Confidential Information that is legally required and will exercise its best efforts to obtain reliable assurance that confidential treatment will be accorded such Confidential Information.
- 6) The Confidential Information shall remain the property of RG&E, and RG&E may demand the return thereof at any time, upon giving thirty (30) days prior written notice to _____ (Supplier Company Name). Upon receipt of such notice, _____ (Supplier Company Name) shall return all of the Confidential Information and all copies in its possession to RG&E as soon as is reasonably practical, but in no event shall _____ (Supplier Company Name) have fewer than thirty (30) days to return such Confidential Information to RG&E. In the event that _____ (Supplier Company Name) has destroyed any copies, _____ (Supplier Company Name) shall confirm the destruction of such copies in the letter accompanying the return of the documents and copies that were not destroyed.
- 7) _____ (Supplier Company Name) acknowledges that neither RG&E, nor its Representatives and none of the respective officers, directors, employees, agents or controlling persons of RG&E or its Representatives makes any express or implied representation or warranty as to the accuracy or completeness of any Confidential Information, and _____ (Supplier Company Name) agrees that none of such persons shall have any liability to _____ (Supplier Company Name) relating to or arising from its use of any Confidential Information or for any error therein or omissions therefrom. This Agreement shall not be deemed to grant any rights with respect to the Confidential Information other than those expressly set forth herein.
- 8) In the event of any breach or threatened breach, by _____ (Supplier Company Name) of the terms hereof, RG&E shall be entitled to injunctive and other equitable relief, and _____ (Supplier Company Name) shall not plead in defense thereto that there would be an adequate remedy at law. Such remedy shall be cumulative and in addition to all other remedies available.
- 9) No amendments, changes or modifications to this Agreement shall be valid unless the same are in writing and signed by a duly authorized representative of each of the Parties hereto.
- 10) This Agreement may be executed in counterparts, and each counterpart shall for all purposes be an original, and all such counterparts shall together constitute one and the same Agreement.

- 11) This Agreement comprises the full and complete agreement of the Parties hereto with respect to the subject matter hereof and supersedes and cancels all prior communications, understandings and agreements between the Parties hereto, whether, written or oral, expressed or implied.
- 12) This Agreement shall be binding upon the successors and assigns of the Parties.
- 13) This Agreement shall be construed and governed by the laws of the State of New York, without regard to choice of law or conflicts of law provisions that would allow or require the application of the law of another jurisdiction.
- 14) Each Party understands and agrees that no failure or delay by the other Party in exercising any right, power or privilege under this Agreement shall operate a waiver thereof nor shall any single or partial exercise thereof preclude any other or future exercise of any right, power or privilege hereunder.

IN WITNESS WHEREOF, this Agreement is effective as of the day and year first above written.

(Supplier Company Name)

RG&E

By: _____

By: _____

Name: _____

Name: Sarah E. Disbrow

Title: _____

Title: Manager - Supplier Services

Date: _____

Date: _____