



## TERMS AND CONDITIONS

**TERM:** The services provided by South Bay Energy to Customer are governed by the terms and conditions of this Agreement, including the above stated enrollment details and attached Contract Summary. You will receive a confirmation notice from your EDC to confirm your choice of South Bay Energy as your TPS. This Agreement shall commence as of the date Customer's change of Customer's supplier to South Bay Energy is deemed effective by the LDC, and shall continue until terminated by either party. When receiving service on a month-to-month basis, the Customer may provide written notice of termination or call TPS at 877-724-9010 or call their LDC to terminate the agreement. TPS may terminate this Agreement by providing 30 days' written notice to the Customer.

**Pricing, Billing, and Termination:** Unless otherwise agreed to in writing, the price for all energy sold under this Agreement shall be a variable price established each month by TPS based upon market conditions. The Variable Price for Natural Gas shall reflect South Bay Energy's wholesale cost of natural gas (including capacity, settlement, ancillaries, related transmission and distribution charges and other market-related factors); plus all applicable, fees, charges, costs, and South Bay Energy's expenses and margins. The Variable Price for Electricity shall reflect South Bay Energy's wholesale cost of electricity (including the cost of energy, capacity, settlement, ancillaries, related transmission and distribution charges and other market-related factors); plus all applicable, fees, charges, costs, and South Bay Energy's expenses and margins. **A Variable Price Agreement, means that the price for electricity and/or natural gas supplied during the term of the Agreement may change from time-to-time based on various factors, including weather fluctuations. Under a Fixed Rate Agreement the price for electricity and/or natural gas supplied will remain the same each month during the term of the Agreement. South Bay's rate may be higher or lower than your LDC's rate in any particular month, and there is not guarantee of savings.**

Customer will be invoiced by its LDC(s) monthly for electricity and/or natural gas delivered 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 LDC late payment charges.

**Assignment:** Customer may not assign its interests in and delegate its obligations under this Agreement without the express written consent of TPS. TPS may sell, transfer, pledge, or assign the accounts receivable, revenues, or proceeds hereof, in connection with any financing agreement, purchase of accounts receivables program or billing services agreement, and may assign this Agreement and the rights and obligations there under, to another energy supplier, energy services company or other entity as authorized by the BPU.

**Information Release Authorization:** Customer authorizes TPS 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; utility account number; credit information; public assistance status; existence of medical emergencies, status as to whether Customer has a medical emergency. This information may be used by TPS 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 TPS. 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 TPS or by calling TPS at 1-877-9010. TPS reserves the right to cancel this Agreement in the event Customer rescinds the authorization.

**Residential Consumer Protections:** There is no charge for starting or stopping electric generation service or natural gas supply service. TPS will provide at least 30 days' notice prior to the cancellation of service to Customer. Customer may obtain additional information by contacting TPS at 1-877-724-9010 or 1-631-724-9010 or the BPU at 1-800-624-0241, or by writing to the BPU at: BPU, Customer Service Division, 44 South Clinton Avenue, Trenton, NJ 08625, or through its website at [www.bpu.state.nj.us/](http://www.bpu.state.nj.us/). Your LDC's transmission and distribution functions will continue to be regulated by the BPU. Electricity and/or natural gas service may be disconnected only by your LDC and only in compliance rules set by the BPU.

Residential Right of Rescission: If you are a residential customer you may rescind your selection of South Bay Energy by contacting your LDC or by calling South Bay Energy at 877-724-9010 within seven calendar days of the date of the LDC's confirmation notice.



**Cancellation:** Customer is liable for all TPS charges until Customer returns to the LDC or goes to another supplier. Residential customers may terminate this Agreement upon 48 hours' written notice as a result of relocation, a disability that renders the customer unable to pay for South Bay Energy's services, and/or the death of the customer. If there is a material adverse change in the business or financial condition of Customer (as determined by South Bay Energy 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, South Bay Energy may terminate this Agreement upon 30 days' notice to Customer. There is no charge for starting or stopping electric generation service. Please note that it may take several billing cycles for your LDC to process the cancellation of service.

**Agency:** Customer hereby appoints TPS as agent for the purposes of (i) acquiring the supplies necessary to meet Customer's energy needs, and (ii) arranging, contracting for and administering transportation and related services over transmission facilities and those of the LDC needed to deliver energy to the Customer's premises. These services are provided on an arm's length basis and market-based compensation is included in the price noted above.

**Title:** All energy sold under this Agreement shall be delivered to a location considered the "Point of Delivery", which for electricity shall be at the PJM TPS load bus (located outside of the municipality where Customer resides), and for the natural gas transported by interstate pipelines will be the city gate stations of the LDC and shall constitute the point at which title transfers and the sale occurs. TPS will indemnify and hold harmless Customer from all taxes, royalties, fees or other charges incurred before title passes with respect to the energy provided hereunder.

**Warranty:** This Agreement, including applicable attachments, constitutes the entire Agreement between Customer and TPS. TPS makes no representations or warranties other than those expressly set forth in this Agreement, and TPS expressly disclaims all other warranties, express or implied, including merchantability and fitness for a particular use.

**Force Majeure:** TPS will make commercially reasonable efforts to provide energy hereunder but TPS does not guarantee a continuous supply of energy to Customer. Certain causes and events out of the control of TPS ("Force Majeure Events") may result in interruptions in service. TPS will not be liable for any such interruptions caused by a Force Majeure Event, and TPS 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 energy distribution lines), changes in laws, rules, or regulations of any governmental authority or any other cause beyond TPS's control.

**Liability:** The remedy in any claim or suit by Customer against TPS will be solely limited to direct actual damages. By entering into this Agreement, Customer waives any right to any other remedy in law or equity. In no event will either TPS 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.

**Contact Information:** Customer may contact South Bay Energy's Customer Service Center at 1-877-724-9010, Monday through Friday 8:00 a.m. - 5:30 p.m. EST (contact center hours subject to change). Customer may write to South Bay Energy at: South Bay Energy Corp. 700 Veterans Memorial Highway, Suite 210 Hauppauge, NY 11788.

**Dispute Resolution:** In the event of a residential billing dispute or a disagreement involving TPS's service hereunder, the parties will use their best efforts to resolve the dispute. Customer should contact TPS 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 BPU by calling the BPU at 1.800.624.0241 or by writing to the BPU at: BPU Customer Service Division, 44 South Clinton Avenue, Trenton, New Jersey 08625, or through its website at: [www.bpu.state.nj.us/](http://www.bpu.state.nj.us/). Customer must pay the bill in full, except for the specific disputed amount, during the pendency of the dispute.

**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 Jersey. This Agreement shall be construed under and shall be governed by the laws of the State of New Jersey without regard to the application of its conflicts of law principles.

**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 TPS's net



income, shall be paid by Customer, and Customer agrees to indemnify TPS and hold TPS 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.

**Regulatory Changes:** If at some future date there is a change in any law, rule, regulation or pricing structure whereby TPS is prevented, prohibited or frustrated from carrying out the terms of the Agreement, at its sole discretion TPS shall have the right to cancel this Agreement on 30 days’ notice to Customer.

**Renewable Energy:** Under South Bay’s Renewable Electricity Product, a percentage of the electricity sold is matched with renewable energy certificates (“RECS”) generated from renewable or alternative energy sources in the United States which have been qualified as such by a regional or state RPS administrator. This renewable percentage is over and above the minimum renewable energy requirements for this state. To view the historical percentage of electricity that is matched with RECs, please visit our website at [www.southbayenergy.com](http://www.southbayenergy.com)

**Emergency Service Contacts:** In the event of a gas leak, electric power outage or other emergency, please use the following toll-free numbers to directly contact your utility:

<b>Electric Distribution Company</b>	<b>Emergency Contact Number</b>	<b>Customer Service Number</b>
Atlantic City Electric	1-800-833-7476	1-800-642-3780
Jersey Central Power & Light (“JCP&L”)	1-800-662-3115	1-800-662-3115
Public Service Electric & Gas (“PSE&G”)	1-800-436-7734	1-800-436-7734
Rockland Electric Company (“O&R”)	1- 877-434-4100	1-877-434-4100
<b>Natural Gas Distribution Company</b>	<b>Emergency Contact Number</b>	<b>Customer Service Number</b>
PSE&G	1-800-436-7734	1-800-642-3780
South Jersey Gas	1-800-582-7060	1-888-766-9900
Elizabethtown Gas	1-800-492-4009	1-800-242-5830
New Jersey Natural Gas	1-800-427-5325	1-800-221-0051