

## SERVICE CONTRACT

This Service Contract (the "Contract"), entered into and effective the \_\_\_\_ day of \_\_\_\_\_, 2017 (the "Effective Date"), is by and between [FULL LEGAL NAME OF CONTRACTOR], with offices at [STREET, CITY, STATE, AND ZIP] (hereinafter "Contractor"); and [FULL LEGAL NAME OF CONTRACTEE] (hereinafter "[ABBREVIATED NAME OF CONTRACTEE]") with offices at [CONTRACTEE ADDRESS].

### WITNESSETH:

**WHEREAS**, [ABBREVIATED NAME OF CONTRACTEE] desires to retain Contractor to provide a Natural Gas Vehicle Market Assessment; and

**WHEREAS**, Contractor desires to provide such services, subject to the terms and conditions of this Contract.

**NOW THEREFORE**, in consideration of the mutual covenants, premises, conditions, and terms to be kept and performed, the parties hereto agree as follows:

1. **TERM OF AGREEMENT.** This Contract shall be in effect and continue for an initial period of [EX: ONE (1) YEAR] from the Effective Date indicated above and shall be renewable at the sole option of [ABBREVIATED NAME OF CONTRACTEE]. [ABBREVIATED NAME OF CONTRACTEE] shall also have the option to terminate this Contract at any time, for whatever reason, upon thirty (30) days written notice. In the event that Contractor fails to perform any of the terms and conditions of this Contract, at the option of [ABBREVIATED NAME OF CONTRACTEE], the Contract shall at once cease. Contractor agrees that all moneys collected on behalf of [ABBREVIATED NAME OF CONTRACTEE] and all records furnished by [ABBREVIATED NAME OF CONTRACTEE] under the terms of this Contract shall be immediately forwarded to [ABBREVIATED NAME OF CONTRACTEE] upon termination of this Contract or upon Contractor's business failure, bankruptcy, receivership, etc. Upon termination, Contractor shall be entitled to payment of its fees and reimbursement of expenses incurred through the date of termination, provided its fees or expenses are not in dispute at the time of termination.

2. **SCOPE OF WORK.** Contractor shall perform all duties as fully described in Exhibit B and attached hereto and incorporated by reference herein.

3. **COMPENSATION.**

a) **RATE OF PAYMENT.** [ABBREVIATED NAME OF CONTRACTEE] shall pay Contractor for work fully and satisfactorily completed as set forth in Paragraph 2 above. Payment amount and terms to be determined.

b) **INVOICES SUBMITTED BY CONTRACTOR.** Any invoices submitted by Contractor, for the purpose of being paid for work completed as set forth in Paragraph

2 above, shall be for the sole purpose of compensating Contractor for work fully and satisfactorily completed hereunder.

- c) All invoices submitted by Contractor shall be sent to the attention of Robert D. Eck, [FULL LEGAL NAME OF CONTRACTEE] located at [ADDRESS].
- d) Within thirty (30) days of receipt of such invoices for work fully and satisfactorily performed under the Contract, [ABBREVIATED NAME OF CONTRACTEE] shall pay Contractor at the rate provided for herein.
- e) [ABBREVIATED NAME OF CONTRACTEE] shall have the right to determine whether such invoices submitted by Contractor are true and accurate only as to the amount of work that is fully and satisfactorily completed.

4. **BUSINESS AND TRAVEL EXPENSES.** Contractor hereby agrees that [ABBREVIATED NAME OF CONTRACTEE] shall not be required to pay compensation for any actual, incidental, or additional business and/or travel expenses incurred by Contractor or those hired by Contractor. Contractor agrees that any and all compensation paid by [ABBREVIATED NAME OF CONTRACTEE] to Contractor as directed by Paragraph 3, includes payment for any actual, incidental, or additional business and/or travel expenses incurred by Contractor and any other workers hired by Contractor.

5. **CERTAIN BENEFITS.** It is understood that [ABBREVIATED NAME OF CONTRACTEE] is not required to provide or pay for life, medical, retirement or any other compensation benefits that might be required of Contractor. Included in the amounts payable under Paragraph 3 is an amount available to Contractor for the payment by Contractor for the purchase of the life, medical, retirement and any other compensation benefits required of Contractor by law, rule, order or regulation of any governmental agency or authority.

6. **TAXES.**

- a) Contractor shall be responsible for the payment of any and all local, state and federal taxes, or other fees, imposed on the amounts made payable to Contractor as a result of the services rendered hereunder.
- b) Contractor shall be responsible for the withholding and/or payment of any and all applicable local, state and federal employment, payroll and/or income taxes associated with any and all of Contractor's employees. Contractor agrees to indemnify and hold harmless [ABBREVIATED NAME OF CONTRACTEE] for or from any failure, on the part of Contractor, to withhold or remit such applicable taxes.
- c) Upon request by [ABBREVIATED NAME OF CONTRACTEE], Contractor shall provide documented proof that the above-referenced taxes were paid, as required.

7. **INDEPENDENT CONTRACTOR.** It is understood and agreed that Contractor in performing all work hereunder, shall be an independent contractor and shall be responsible for accomplishing the results contracted for under this Contract. Neither party shall in any way represent that it is an employer, employee, agent, partner or legal representative of the other party. As an

independent Contractor, Contractor is not authorized to make any contract, agreement, warranty or representation on behalf of [ABBREVIATED NAME OF CONTRACTEE].

8. **IRS EMPLOYER ID NUMBER.** Throughout the term of this Contract, Contractor shall provide proof to [ABBREVIATED NAME OF CONTRACTEE] that it has a valid Employer ID Number issued by the IRS. Contractor shall be responsible for all fees, if any, in connection therewith, and shall fulfill and maintain all requirements for such a number.

9. **HOURS OF WORK.** Contractor may, at its discretion, work any set number of hours during a day, week, month or during the term of this Contract.

10. **PLACE OF WORK.** [ABBREVIATED NAME OF CONTRACTEE] shall not require Contractor to work on the [ABBREVIATED NAME OF CONTRACTEE]'s premises. [ABBREVIATED NAME OF CONTRACTEE] hereby agrees that the services performed by Contractor may be performed at other locations at the Contractor's discretion, so long as such other locations do not impair the Contractor's ability to fully and satisfactorily complete their obligations hereunder and do not impair or infringe upon [ABBREVIATED NAME OF CONTRACTEE]'s own operations.

11. **SOLICITATION OF EMPLOYMENT.** Contractor will not knowingly or intentionally solicit, hire, contract with, or engage the employment or services of any employee of [ABBREVIATED NAME OF CONTRACTEE] with whom Contractor personnel have had contact in the course of performance of this Contract and for a period of one hundred eighty (180) days following termination of this Contract. [ABBREVIATED NAME OF CONTRACTEE] will not knowingly or intentionally solicit and/or hire, as an employee of [ABBREVIATED NAME OF CONTRACTEE], any employee of Contractor during the first one hundred eighty (180) days of said employee's work on the project to be performed pursuant to this Contract.

12. **PROHIBITION AGAINST SUBCONTRACTING.** Contractor shall not subcontract out any of the work to be performed by it under this Contract without the prior written consent of [ABBREVIATED NAME OF CONTRACTEE].

13. **HIRING OF WORKERS.** [ABBREVIATED NAME OF CONTRACTEE] hereby acknowledges that nothing in this Contract shall limit Contractor's right to hire or work with any associates, partners, assistants, support staff or employees that Contractor, at its discretion, may deem necessary. Contractor hereby acknowledges that the hiring, supervising and payment of such personnel shall be the sole responsibility of Contractor, and that [ABBREVIATED NAME OF CONTRACTEE] shall not be responsible for the hiring, supervision or payment of or for providing any compensation and benefits for any associates, partners, assistants, support staff, or employees that Contractor may need to perform its obligations hereunder.

14. **WORKING FOR OTHERS.** [ABBREVIATED NAME OF CONTRACTEE] hereby affirms that nothing in this Contract shall limit or restrict [ABBREVIATED NAME OF CONTRACTEE] from working for, or with, any other person or entity during or after the term of this Contract.

15. **TRAINING AND EXPERTISE.** Contractor acknowledges that the person or persons performing the work specified in Paragraph 2 have the requisite training and expertise

necessary to fully and satisfactorily complete their obligation hereunder. Contractor agrees that if further training or expertise is or becomes necessary or required to fully and satisfactorily complete their obligations that Contractor, or the person or persons employed by Contractor, shall obtain such training or expertise. Contractor further acknowledges that [ABBREVIATED NAME OF CONTRACTEE] shall have no responsibility or duty to provide any such training or expertise for Contractor which may be necessary or required of Contractor in order to fully and satisfactorily complete its obligations, and that any fees in connection therewith shall be borne solely by Contractor, and not [ABBREVIATED NAME OF CONTRACTEE].

16. **NONEXCLUSIVE.** Each party hereby affirms that nothing in this Contract shall limit or restrict the other party from working with any other person or entity during or after the term of this Contract. This Contract confers no exclusive rights upon Contractor, is not a guarantee or promise by [ABBREVIATED NAME OF CONTRACTEE] that it will provide any amount of work to Contractor, and [ABBREVIATED NAME OF CONTRACTEE] reserves the right (i) to use any other parties to perform services, or portions of services, similar to those to be performed by Contractor pursuant to the terms of this Contract or (ii) to increase or decrease the amount of services to be provided by Contractor or the service territory covered by this Contract.

17. **QUALITY OF WORK.** Contractor represents and warrants that the services to be performed by it hereunder shall be accomplished in a professional and competent manner consistent with the level of care and skill ordinarily exercised in the trade under similar circumstances.

18. **PERSONNEL INVESTIGATIONS.** Contractor, at its sole expense, shall have [ABBREVIATED NAME OF CONTRACTEE]'s designated consumer reporting agency perform criminal background and driving record investigations as requested by [ABBREVIATED NAME OF CONTRACTEE] on any employee or agent of Contractor or any subcontractor that will be or is assigned to perform work under this Contract. Contractor shall ensure that Thomas Davies, [ABBREVIATED NAME OF CONTRACTEE]'s Assistant General Manager of Security or his designate, may directly access the results of such investigation from the designated consumer reporting agency. Proof of compliance with this requirement shall be maintained by Contractor and shall be available for inspection by [ABBREVIATED NAME OF CONTRACTEE] upon 24 hours' notice. Prior to Contractor assigning its employee or agent to perform work under this Contract, Contractor shall report to [ABBREVIATED NAME OF CONTRACTEE] all criminal convictions and any pending criminal proceedings against said individuals, as well as any traffic infractions. Such reports shall be made to Thomas Davies or his designate at (716) 857-7050 or (800) 634-5440 ext. 7050 and shall then be sent to [ABBREVIATED NAME OF CONTRACTEE] in writing.

[ABBREVIATED NAME OF CONTRACTEE] may deem as unacceptable any Contractor employee or agent assigned to perform work under this Contract if, in [ABBREVIATED NAME OF CONTRACTEE]'s sole opinion, there is a direct relationship between one or more of the previous criminal offenses and the work to be performed or assigning the employee or agent to perform work under the Contract would involve an unreasonable risk to property or to the safety or welfare of specific individuals or the general public.

19. **CONTRACTOR INDEMNITY CLAUSE.** Contractor will defend, indemnify and hold [ABBREVIATED NAME OF CONTRACTEE] harmless from and against any and all loss, damage, injury, suits, penalties, costs, liabilities and expenses (including, but not limited to, attorney fees and legal expenses) arising out of any first-party or third-party claim for loss of or damage to

property, including property of [ABBREVIATED NAME OF CONTRACTEE] or Contractor, liability to, injury to, or death of any person, including an employee of [ABBREVIATED NAME OF CONTRACTEE] or Contractor, caused by (a) any act or omission constituting negligence, recklessness, willful misconduct or breach of fiduciary duty by Contractor, its officers, employees, subcontractors or other agents, including but not limited to failure to comply with federal, state and local laws, ordinances and regulations applicable to services to be performed hereunder, (b) any action taken by or on behalf of Contractor which is not permitted by or pursuant to the terms of this Contract or (c) Contractor's breach of the warranties contained in this Contract. This provision does not obligate the Contractor to indemnify [ABBREVIATED NAME OF CONTRACTEE] for the active or passive negligence or breach of duty by [ABBREVIATED NAME OF CONTRACTEE]. However, in the event liability is shared by the parties to this Contract, the Contractor shall contribute in the amount of its proportionate share for all actions, claims, liability, damages, losses, expenses (including attorney fees and legal expenses) or judgments.

It is further agreed that, if the Contractor subcontracts or delegates to others the work or any part thereof, the Contractor will have the subcontractors and/or delegates agree to indemnify and insure [ABBREVIATED NAME OF CONTRACTEE] in the same manner as the Contractor has agreed to indemnify and insure [ABBREVIATED NAME OF CONTRACTEE] under this Contract and shall deliver a true copy of said contract to [ABBREVIATED NAME OF CONTRACTEE]. In the absence of such agreement or the delivery of same prior to the subcontractors or delegates commencing their work, the Contractor will be held liable to indemnify and insure [ABBREVIATED NAME OF CONTRACTEE] in the same manner and to the same extent that the subcontractors and/or delegates would have been required to indemnify and insure [ABBREVIATED NAME OF CONTRACTEE] if such agreement had been made.

This indemnity obligation shall survive the termination of this Contract. For purposes of enforcing this Paragraph 19, Contractor waives as a complying employer, its immunity provided under the [SPECIFY STATE] Worker's Compensation Act, and all similar and/or related laws, rules and regulations.

Additionally, for purposes of this Paragraph 19, [ABBREVIATED NAME OF CONTRACTEE] shall include [ABBREVIATED NAME OF CONTRACTEE] Gas Company and all of its direct and indirect subsidiaries along with any officer or employee of these entities.

20. **INSURANCE.** Contractor certifies that it has contracted for, presently has, will continue to carry without lapse and will provide copies of insurance certificates to [ABBREVIATED NAME OF CONTRACTEE], for the insurance coverage required under "[ABBREVIATED NAME OF CONTRACTEE] Gas Standard Insurance Provisions for Contractors," which are attached hereto as Exhibit D and made a part hereof by reference.

21. **LIMITATION OF LIABILITY.** UNDER NO CIRCUMSTANCES SHALL [ABBREVIATED NAME OF CONTRACTEE] BE LIABLE TO CONTRACTOR OR ANY THIRD PARTY FOR ANY SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL LOSSES OR DAMAGES OF ANY KIND WHATSOEVER (INCLUDING, BUT NOT LIMITED TO, LOST BUSINESS, LOST PROFITS, LOST REVENUES, OR LOST DATA) HOWEVER ARISING, WHETHER CLAIMS FOR SAID LOSSES OR DAMAGES ARE PREMISED ON CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR

OTHERWISE, IRRESPECTIVE OF THE NUMBER OR NATURE OF THE CLAIMS. THE PARTIES AGREE TO THE ALLOCATION OF LIABILITY SET FORTH IN THIS SECTION.

22. **CONFIDENTIALITY.** [ABBREVIATED NAME OF CONTRACTEE] and Contractor agree to be bound by the terms of the previously signed Confidentiality Agreement between them, attached as Exhibit A and incorporated by reference. [ABBREVIATED NAME OF CONTRACTEE] and Contractor further agree that this Agreement shall supersede the Confidentially Agreement in the event that there are any conflicting terms or obligations between this Agreement and the Confidentially Agreement.

23. **COMMUNICATIONS.** All notices and other communications under this Contract shall be deemed effectively made or given if written and delivered personally or by mail to the appropriate party at the addresses specified below or at such other addresses as may be designated in writing from time to time.



- a. With respect to Contractor:

[NAME]  
[COMPANY]  
[ADDRESS]  
[CITY, STATE, ZIP]

- b. With respect to [ABBREVIATED NAME OF CONTRACTEE]:

[NAME OF DESIGNATED CONTACT]  
[FULL LEGAL NAME OF CONTRACTEE]  
[ADDRESS]

24. **AUDIT.** [ABBREVIATED NAME OF CONTRACTEE] shall have the right, upon reasonable notice, to examine and audit all of Contractor (and any subcontractor) billings and all of the backup support data for those billings. Contractor (and subcontractors) shall make available said information to [ABBREVIATED NAME OF CONTRACTEE], upon request, at the office of Contractor or subcontractor.

25. **COMPLIANCE WITH LAWS.** Contractor warrants that all the services rendered hereunder will have been provided in compliance with all the requirements of the Fair Labor Standards Act, the Occupational Safety and Health Act, the Social Security Act, the Immigration Reform and Control Act, the provisions of 29 C.F.R. Part 471 Appendix A to Subpart A (if applicable), Federal Energy Regulatory Commission regulations (“FERC”) (if applicable) and all other applicable local, state, and federal laws, ordinances, and regulations. Contractor agrees to participate in [ABBREVIATED NAME OF CONTRACTEE]’s training regarding FERC requirements, as requested by [ABBREVIATED NAME OF CONTRACTEE]. [ABBREVIATED NAME OF CONTRACTEE] is a Federal contractor and, if applicable, the following apply: **This contractor (Contractor) and subcontractor shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity or national origin. Moreover, these regulations require that covered prime contractors ([ABBREVIATED NAME OF CONTRACTEE]) and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, protected veteran status or disability.**

26. **EQUAL EMPLOYMENT OPPORTUNITY.** The Equal Opportunity clause in Section 202, Paragraphs 1 through 7 of Executive Order 11246, as amended; and Section 503 of the Rehabilitation Act of 1973, 29 U.S.C. §793, as amended; and Section 402 of the Vietnam Era Veterans Readjustment Assistance Act of 1974, 38 U.S.C. §§4211-12; and the Americans with Disabilities Act of 1990, 42 U.S.C. §12101, et seq., as amended, relating to equal employment opportunity; and the implementing Rules and Regulations of the Office of Federal Contracts Compliance Programs as set forth in 41 C.F.R. Chapter 60 are incorporated herein by specific reference.

27. **WARRANTY OF AUTHORITY.** Contractor warrants that it is authorized to do business in the jurisdictions for which authorization is necessary to provide the goods or services. Contractor further warrants that it is not subject to any non-competition agreement that would be applicable to this Contract and/or the services to be performed hereunder.

28. **NON-WAIVER.** Failure of either party to act or exercise his rights under this Contract upon the breach of any of the terms hereof by the other party shall not be construed as a waiver of such a breach or prevent said party from thereafter enforcing strict compliance with any or all of their terms hereof.

29. **NON-ASSIGNABILITY.** This Contract may not be assigned without the express written consent of the other party.

30. **GOVERNING LAW.** This Contract shall be governed by the laws of the [SPECIFY LEGAL JURISDICTION] without giving effect to the conflict of law's provisions thereof.

31. **VENUE.** Any claim or dispute between Contractor and [ABBREVIATED NAME OF CONTRACTEE], if not settled by informal negotiations, shall be settled by litigation in a court of competent jurisdiction located in [SPECIFY LEGAL JURISDICTION].

32. **SEVERABILITY.** The provisions of this Contract shall be severable, and if any clause, sentence, paragraph, provision or other part hereof shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder hereof, which remainder shall continue in full force and effect.

33. **CAPTIONS AND HEADINGS.** The captions and headings herein are for convenience only and are not to be construed as a part of this Contract, nor shall the same be construed as defining or limiting in any way the scope or intent of the provisions hereof.

34. **SURVIVAL.** Sections 19, 21, and 22 shall survive termination and/or expiration of this Agreement.

35. **ENTIRE CONTRACT.** It is understood that the foregoing represents the entire Contract between the parties hereto. This Contract shall supersede all prior contracts and understandings between the parties with respect to the subject hereof. No amendment to this Contract shall have any effect unless agreed upon in writing by the authorized representatives of each party. Contractor may acknowledge this Contract by a purchase order or invoice, but any and all items, conditions and provisions contained in any purchase order or invoice with respect to the transactions contemplated by this Contract, whether prior to or subsequent to the date hereof, are agreed to be surplusage and without any force or effect. In the event of a conflict between the terms of the Contract and any exhibit hereto, the terms of the Contract shall prevail. The provisions of Paragraphs 19, 20, 21, 22, 24, 31 and 34 shall survive expiration or termination of this Contract.

**IN WITNESS WHEREOF,** the parties hereto have made and entered into this Contract as of the date it has been executed by both parties.



**[FULL LEGAL NAME OF  
CONTRACTEE]**

By: \_\_\_\_\_

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

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

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

**[FULL LEGAL NAME OF  
CONTRACTOR]**

By: \_\_\_\_\_

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

Title: \_\_\_\_\_  
(Must be signed by an Officer)

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