

OPERATING AND PROPANE AIR SALES SUPPLY AGREEMENT

This Operating and Propane Air Sales Supply Agreement dated November 1, 1998 is between New Hampshire Gas Corporation (the "Buyer"), on the one hand, and Keene Gas Corporation (the "Seller"), on the other hand.

WITNESSETH:

WHEREAS, the Buyer is purchasing certain specified assets of the Seller ("Purchased Assets") pursuant to an Asset Purchase Agreement dated April 30, 1998 between New York State Electric & Gas Corporation ("NYSEG"), on the one hand, and the Seller, on the other hand (the "Asset Purchase Agreement"), which Asset Purchase Agreement has been duly assigned to Buyer. Such specified assets include, but are not limited to, a Distribution System and certain miscellaneous trucks and equipment; and

WHEREAS, the Buyer and Seller's intent in the Asset Purchase Transaction is to effect a split of Keene Gas Corporation into two separate business entities, a propane air manufacturing and supply operation and a propane vapor supply business, which shall be retained, owned and operated by the Seller for a period to be determined by Buyer, and a regulated propane air distribution business, which shall be owned and operated solely by Buyer; and

WHEREAS, as part of the Asset Purchase Agreement and in accordance with requirements of the New Hampshire Public Utilities Commission (the "Commission"), the Seller has agreed to supply propane air to Buyer from its property located at 207 Emerald St., Keene, New Hampshire (the "Property") and to operate the Property for such period until Buyer finds an energy source such as natural gas, that can be used to supply the Buyer's customers in Keene, New Hampshire; and

WHEREAS, Buyer must have the Seller continue operating the Property and manufacturing for sale to Buyer sufficient quantities of propane air for such period to insure that the customers in Keene, New Hampshire receive a full and uninterrupted supply of propane air sufficient to meet their needs, until an alternate energy source found by Buyer; and

WHEREAS, Seller is willing to supply Buyer with propane air and to operate the Property for such period.

NOW THEREFORE, in consideration of the mutual agreements contained herein and in the Asset Purchase Agreement, the parties hereby agree as follows:

1. **Seller's Duties and Responsibilities.** Seller shall be responsible to undertake all acts that are necessary and appropriate to deliver a supply of propane air at the property line of the Property sufficient to meet all of the needs, including the peak needs, of Buyer and Buyer's customers,

including but not limited to, purchasing and storing propane, manufacturing propane air, operating the Property, maintaining and repairing the tanks and all equipment owned by Seller which is located on the Property or which is otherwise necessary for Seller to undertake its duties hereunder, insuring adequate staff is contracted for and is and will be available to safely and reliably operate the Property and to handle any emergencies that may arise and to deliver the propane air to Buyer in accordance with any then applicable New Hampshire Public Utilities Commission (the "Commission") requirements and rules. Sales of propane air to Buyer shall be on a firm basis and shall be interruptible only in the event of force majeure.

2. Buyer's Duties and Responsibilities. Buyer shall be required to purchase the Keene, New Hampshire customers' requirements of propane air only from Seller, except in cases of Force Majeure or during any period(s) where Seller fails to deliver an adequate supply of propane air to satisfy all of the requirements of Keene customers. Buyer's duties hereunder shall continue for the period to be determined by Buyer in its sole discretion, until Buyer shall have found and made operational an alternate energy supply source off of the Property to supply Buyer's customers with their energy requirements and Buyer shall have the further duty to deliver the propane air that Seller delivers to Buyer to Keene customers in accordance with Commission rules and requirements.

3. Payment. Buyer shall be required to pay Seller for the operation of the Property and for the delivery of propane air to Buyer by reimbursing Seller for all of its actual, reasonable Costs incurred by Seller in making delivery of propane air to Buyer in accordance with this Agreement, plus an operating fee of \$5,000.00 per year (prorated for a portion of any year), which Costs shall be payable only until such time as Buyer advises Seller that it has found an alternative site and/or energy supply type (such as natural gas) and that Seller's service will no longer be required.

4. Seller's Costs. Costs shall include only the actual, reasonable costs of purchasing propane and any transportation costs to the Property, commercially reasonable insurance premium costs, reasonable accounting costs, depreciation expense up to a maximum of \$5,000 per year, costs associated with obtaining and/or maintaining all necessary licenses, permits or other regulatory or legal authorizations necessary to enable Seller to deliver propane air to Buyer at the property line of the Property, taxes on the Property, equipment and/or operation (but not including income taxes), costs of retaining or contracting for operating personnel, repair, upkeep and maintenance costs on the Property or on the equipment on the Property as may be necessary for Seller to operate the Property and provide a safe and reliable supply of propane air to Buyer sufficient to serve all of the needs of propane air customers in Keene and all other minor incidental operating costs (hereinafter collectively referred to as "Costs"). All of Seller's actual, reasonable Costs shall be reimbursed. Costs, notwithstanding the other provisions of this Agreement, shall not include the cost of executive or managerial salaries, unless otherwise agreed by Buyer nor the costs of any investigation, clean up, or remediation of any Hazardous Substance(s) currently on, adjacent to or off of the Property for which Seller is or may become liable, costs associated with damages or injuries (including death) to persons or property caused by or relating to the operation of the Property or delivery of propane air to Buyer or attorney fee costs in defending any such claims or actions, or major plant additions (which shall be project expense for any single project which exceeds \$10,000 or any series of related projects which exceed \$10,000 in the aggregate). All of

Seller's actual, reasonable Costs, as limited and described herein, shall be paid for by Buyer to Seller as reimbursable costs for Seller to operate the Property and deliver propane air to Buyer.

5. Term. This Operating Agreement shall have an effective date as the date of the Closing on the Asset Purchase Agreement (the "Effective Date") or on such other date as may be determined by the parties on the Closing Date and shall remain in place until such time as Buyer advises Seller, with a minimum of ninety (90) days advance written notice, that an alternative site or alternative energy supply source for Buyer's customers has been secured and that Seller's services under this Agreement are no longer required.

6. Seller's Covenants. Seller covenants that it will have adequate facilities, tanks and other equipment on the Property to enable Seller to provide an uninterrupted, safe and reliable supply of propane air sufficient to serve all of the needs of Buyer's propane air customers in Keene in accordance with all Commission requirements. Seller agrees that it shall retain the obligation of keeping the Property in good repair so that deliveries can be safely and reliably made to Buyer both before and after Closing until the period referred to above has ended.

7. Buyer's Covenants. Buyer covenants that it shall purchase from Seller all of the propane air requirements of Buyer's customers in Keene, New Hampshire during the term of this Agreement, in accordance with Section 2 above. Buyer further covenants that it will keep the Distribution System Buyer is purchasing from Seller pursuant to the Asset Purchase Agreement in good operating repair so that Buyer will be ready and able to accept Seller's supply of propane air at the property line of the Property and to operate the Distribution System in accordance with all applicable Commission rules and requirements.

8. Delivery Point. The Delivery Point shall be a point at the connection point(s) between Seller's facilities on the Property into the Distribution System at the property line of the Property.

9. Quality Specifications and Pressures. The propane air that Seller shall deliver shall at all times meet the following quality specifications: the standard heat content value of the propane delivered at the Delivery Point shall be 74 therms per 100 cubic ft.; Seller's maximum and minimum propane air delivery pressures at the property line of the Property shall be such that it permits Buyer (without adding compression, new pressure regulation or other similar equipment) to comply with Section PUC 504.03 of the New Hampshire Code of Administrative Rules and; Seller's propane air shall comply with the purity and odorant requirements of the New Hampshire Code of Administrative Rules, Chapter PUC 500, Rules for Gas Service.

In the event the propane air Seller delivers shall at any time shall fail to meet the quality or pressure specifications set forth above, it shall be considered a breach of Seller's duties and obligations hereunder and Buyer shall have no duty to accept propane air which does not meet the quality or pressure specifications set forth above and Buyer may seek alternative propane air or other energy supply services during any period when Seller fails to provide an uninterrupted supply of propane air to Buyer at the Delivery Point sufficient to meet all of the needs of Keene customers and, except in the case of force majeure, Seller shall pay Buyer any reasonable incremental costs over the Cost that would otherwise be payable to Seller.

10. Buyer's Rights in the Event of Default. In the event Seller defaults under this Agreement and any such default is not corrected within ten (10) days of notice of the default by Buyer, or, if the Seller fails to keep the Property at all times in good and safe operating repair or otherwise fails to undertake in a timely manner any act which is reasonably necessary to insure that all of the propane air requirements of Keene customers including the peak requirements of those customers will be met, Buyer shall have the right, as Seller's agent and in Seller's name, to hire a contractor on Seller's behalf or purchase such equipment, commodity or supplies as may be necessary and appropriate to correct the problem(s) so that, at all times, all of the propane air requirements of Keene customers will be met and to insure the Property will at all times be operated in a good, workmanlike and safe manner in accordance with Commission requirements and rules. In the event Seller shall at any time fail to provide sufficient propane air to meet all of the requirements of Keene Customers, Buyer shall have the right to take whatever steps it deems necessary to supply the shortfall, including but not limited to, making purchases of propane air or other energy from third parties to supply Keene's propane air customer needs.

11. Indemnities by the Seller. The Seller will indemnify, defend and hold harmless the Buyer from and against all liabilities, losses, claims, demands and damages, including reasonable attorneys' fees (collectively, "Claims") arising out of or related to (i) any Excluded Liabilities, (ii) the operation or maintenance of the Property, (iii) the provision by Seller to Buyer of propane air up to and at the Delivery Point, or (iv) for any environmental liabilities whatsoever in any way associated with the Property or environmental liabilities not on the Property that are shown to have derived therefrom regardless whether such liabilities shall have matured before or after the Closing on the Asset Purchase Agreement between the parties. Notwithstanding the above provisions, Seller shall also remain responsible for and shall fully indemnify Buyer against any damages or injuries, including death, downstream of the Delivery Point if it is shown that out-of-specification propane air that Seller has delivered is responsible for the damage, injury or death.

12. Indemnities by the Buyer. The Buyer will indemnify, defend and hold harmless the Seller from and against all Claims arising out of or related to (i) any Assumed Liabilities, (ii) the Buyer's operation of the Distribution System, (iii) any breach of any representation or warranty made by the Buyer to and for the benefit of the Seller in or pursuant to this Agreement or (iv) any damages, other than those specified in Paragraph 11 above, downstream of the Delivery Point.

13. Force Majeure. Force Majeure shall mean accidents strikes, legal process, State or Municipal interference, or any cause whatsoever beyond Seller's reasonable control and which could not have been reasonably avoided and which prevents Seller from delivering propane air to Buyer at the Delivery Point or which prevents Buyer from taking propane air for ultimate delivery to Keene customers.

14. Notices. Except as herein otherwise provided, any notice, request, demand, statement or bill provided for in this Agreement, or any notice which either party may desire to give the other, shall be in writing and shall be considered as duly delivered when mailed by registered or certified mail to the Post Office address of the receiving party, as set forth below or at such other address as either party shall designate by written notice as provided herein. Routine communications, including

monthly statements and bills, shall be considered as duly delivered when mailed by either registered, certified, or ordinary mail. Notwithstanding any other provision hereof, any notice changing the address of a party, for purposes of this Agreement shall be considered duly delivered when received by the addressee. Notice shall be made as follows:

If to the Buyer, to:

George Bonner
President
New Hampshire Gas Corporation
4500 Vestal Pkwy. East
Binghamton, NY 13902

If to the Seller, to:

Mr. Harry B. Sheldon, Jr.
President
Keene Gas Corporation
121 Mattison Drive
Concord, Massachusetts 01742

15. **Billing and Payment.** Seller shall submit an invoice for its Costs in making delivery of propane air to Buyer hereunder by the tenth day of each calendar month for the services rendered in the prior month. Buyer shall pay such invoice on the later of the 25th day of the billing month or ten (10) days after the receipt of the invoice. If any portion of an invoice is in dispute, Buyer shall pay the undisputed portion and shall provide Seller with a formal written notice of the amount in dispute and a detailed description of the specific basis of the dispute. Upon determination of the correct amount, the disputed amount shall be paid, if appropriate, within thirty (30) days, with interest.

16. **Regulatory Authority.** This Agreement is subject to all valid existing and future laws, rules, regulations and orders of all governmental authorities (federal, state and local) having jurisdiction over the parties hereto or the subject matter hereof. The duties of the parties hereunder shall be contingent upon the receipt and continuance of any necessary franchise from the Commission and from any city or municipality and shall be contingent upon the receipt and continuance of any and all other necessary regulatory authorizations and permits. A party may request changes to the tariffs or applicable Commission rules or requirements that are applicable or which may relate to this Agreement.

17. **Severability.** If any provision of this Agreement is determined to be invalid or unenforceable, the provision shall be deemed to be severable from the remainder of this Agreement and shall not cause the invalidity or unenforceability of the remainder of this Agreement. If any provision of this Agreement does not comply with any law, ordinance or regulation of any governmental or quasi-governmental authority, now existing or hereinafter enacted, such provision shall to the extent possible be interpreted in such a manner so as to comply with such law, ordinance or regulation, or

if such interpretation is not possible, it shall be deemed amended to satisfy the requirements thereof.

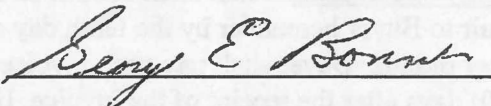

18. Interpretation and Performance. The interpretation and performance of this Agreement shall be in accordance with the laws of the State of New Hampshire, without reference to its conflict of laws provisions.

19. Assignment. This Agreement shall be binding upon the successors and assigns of the Buyer and Seller. No assignment of this Agreement shall be valid without the prior written consent of the parties hereto; provided however, Buyer may assign this Agreement to any affiliate or in the context of any merger, consolidation or reorganization. Any assignment in derogation of these provisions shall be void.

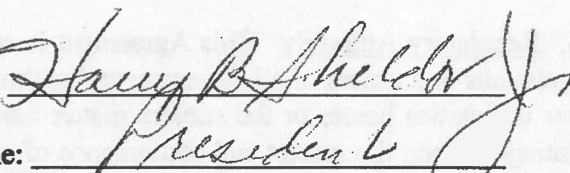
20. Capitalized Terms. Except as otherwise set forth herein, capitalized terms shall have the same meanings as ascribed to them in the Asset Purchase Agreement between the parties.

IN WITNESS WHEREOF, the undersigned have executed this Agreement on the date first above written.

NEW HAMPSHIRE GAS CORPORATION

By: 
Title: President 

KEENE GAS CORPORATION

By: 
Title: President

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