

**BLACK HILLS NEBRASKA GAS, LLC
RESIDENTIAL AND COMMERCIAL CHOICE GAS PROGRAM
SUPPLIER PARTICIPATION AGREEMENT FOR 2024-2025**

This Residential and Commercial Choice Gas Program Supplier Participation Agreement (“Agreement”) is made and entered into to be effective the 1st day of January, 2024, by and between ACE (Public Alliance for Community Energy) (“Supplier”) and Black Hills Nebraska Gas LLC (“Black Hills Nebraska Gas”), (individually, the “Party” and collectively, the “Parties”).

WITNESSETH:

WHEREAS, Black Hills Nebraska Gas offers a Nebraska Residential and Commercial Choice Gas Program (“Choice Gas Program”), as referenced in tariffs on file with the Nebraska Public Service Commission for jurisdictional residential and commercial, non-contract industrial, and non-irrigation and non-grain drying agricultural customers that are connected to the Black Hills Nebraska Gas distribution system located within Rate Area Five service area; and

WHEREAS, Black Hills Nebraska Gas is a regulated natural gas public utility, and is subject to the laws, rules, regulations, and tariffs of the state of Nebraska. Black Hills Nebraska Gas is the administrator of the Residential and Commercial Choice Gas Program; and

WHEREAS, Supplier desires to provide gas commodity supply service to such customers that choose to receive such service from Supplier (“Customers”) in accordance with the terms and conditions of the Residential and Commercial Choice Gas Program, Black Hills Nebraska Gas’ Nebraska Gas Tariff (“Tariff”) and Black Hills Nebraska Gas contracts, rules, regulations and practices applicable to Residential and Commercial Sales Choice Gas Service.

WHEREAS, the effective date of the Residential and Commercial Choice Gas Program Year commences on June 1st each year.

NOW, THEREFORE, in consideration of the mutual promises and covenants herein contained, the Parties agree as follows:

1. Participation: Supplier agrees to participate in the Black Hills Nebraska Residential and Commercial Choice Gas Program by providing gas commodity supply service to Customers. Supplier agrees to be bound by the provisions of this Agreement, other required Choice Gas Program Agreements, and to comply with all laws, rules, regulations, Nebraska Public Service Commission Orders, and any applicable Nebraska Tariff provisions, as they may be revised or changed from time to time. The Black Hills Nebraska Gas Choice Gas Program is provided to Customers pursuant to the Rate Schedule Residential and Commercial Sales Choice Gas Service, as amended from time to time. The total number of participating Suppliers shall be limited to the first eight (8) Suppliers executing a Supplier Participation Agreement.

Supplier shall offer firm gas supply to qualified end-use Customers participating in the Residential and Commercial Choice Gas Service – Rate Schedule Residential and Commercial Sales Choice

Gas Service, Choice Gas Program participants who are connected to the Black Hills Nebraska Gas natural gas distribution system located within certain designated service areas in Nebraska (“Customers”).

2. Registration Fee: Suppliers providing gas commodity supply service to Customers under this Agreement, including any affiliate of Black Hills Nebraska Gas, shall pay an initial registration fee of \$5,000.00 to Black Hills Nebraska Gas prior to the Supplier’s admission as a Choice Gas Program Supplier. Black Hills Nebraska Gas shall retain this fee to help defray costs associated with evaluating and implementing the Supplier’s participation in the Choice Gas Program.

3. Warranty and Supplier Qualification: Supplier shall enter into firm supply purchase agreement(s) to ensure the receipt of gas at the Receipt Points designated by Black Hills Nebraska Gas in an amount sufficient to meet the actual daily consumption of each of Supplier’s Customers under this Agreement. Supplier warrants that it holds, or the party(ies) from whom Supplier is purchasing its gas holds, upstream firm primary path capacity in an amount equivalent to the peak day load requirements at said Receipt Points. Supplier shall be deemed to have delivered at the Receipt Points on any day such quantities of gas allocated to Supplier by Tallgrass Interstate Gas Transmission, LLC (“TIGT”), its successor, or other transporting pipeline(s). In order to qualify as a Supplier in Black Hills Nebraska Gas’ Nebraska Choice Gas Program, upon request by Black Hills Nebraska Gas, Supplier shall demonstrate that its managerial, technical, and financial capability is sufficient to obtain and deliver the services required in this Agreement by providing the Black Hills Nebraska Gas the following information:

- Description of business structure.
- Evidence of authority to do business in programs selected in Paragraph 1 of this Agreement,
- Certificates of Registration by the State of Nebraska for all trade names under which Supplier will operate.
- Name, title, address, email address, and phone number for Suppliers principal officers
- Name(s) and Address(es) of affiliate(s) of Supplier engaged in the Provisions of Competitive Natural Gas Service and Certified under Section 011 of the Nebraska Natural Gas and Pipeline Rules and Regulations.
- Name(s) and Address(es) of affiliate(s) of Supplier engaged in the Provisions of Competitive Natural Gas Service in any other state, noting which state(s).
- Title of action(s) or complaint(s) of proceeding(s) for any legal action or formal complaint pertaining to the Provisions of Competitive Natural Gas Service filed against Supplier or its affiliates in the 12 months prior to the date that this Agreement is executed by Supplier. The information shall include the state and citation to the commission or other website(s) where the text of the order(s) can be found or attach copy of final order(s).
- List the state(s) and jurisdiction(s) in which any license(s) or certificate(s) held by Supplier or an affiliate was/were suspended, revoked or denied, with identification of title(s) and number(s) of applicable proceeding or the citation(s) to the website(s) where the text of the order(s) can be found.

- List the state(s) and jurisdiction(s), if any, where Supplier or an affiliate has voluntarily withdrawn from providing competitive natural gas service due to financial or operational reasons.
- The information shall be attached to this Agreement to demonstrate Suppliers abilities to operate this program, including, but not limited to:
 - Roster of officers and directors
 - Description of the professional backgrounds of the Supplier's principal managerial and technical personnel.
 - Organizational flow chart for Supplier and any affiliates of personnel engaged in administration of competitive natural gas services
 - Description of the facilities and functions Supplier will utilize to administer activities under this Agreement, including but not limited to:
 - Call center
 - Customer service
 - Gas supply
 - Gas scheduling
 - Accounting (to include volume reconciliation)
 - Marketing
 - Load forecasting
 - Description of the services Supplier intends to render

If a Supplier defaults or otherwise does not qualify under the terms of this Agreement, then Black Hills Nebraska Gas may disqualify the Supplier from participating at any time. If a supplier is disqualified, Black Hills Nebraska Gas will notify Supplier that they are ineligible as of a specified date. Continuing Suppliers will have the option to notify Black Hills Nebraska Gas of their binding intent to be assigned all Customer's being served by the ineligible Supplier and the Supplier requesting assignment will provide updated evidence of qualification as provided for in this paragraph. Black Hills Nebraska Gas will provide continuing Suppliers with information on any multi-year pricing options offered by the ineligible Supplier. To be eligible for assignment, the continuing Supplier(s) must agree to honor any multi-year pricing options offered by the ineligible Supplier. Black Hills Nebraska Gas will select the Supplier to receive assignment on a first come basis for qualifying continuing Suppliers. If no Suppliers request assignment, Black Hills Nebraska Gas will notify the affected Customer's that the Supplier is no longer eligible to participate in the Choice Gas program and as a result the Customer(s) are eligible to participate in either the temporary enrollment or the annual enrollment process.

As required by laws and regulations, Supplier must obtain a Competitive Natural Gas Provider certificate or other authority in order by November 1st of the preceding year to be deemed eligible to participate in the Choice Gas Program beginning the following June 1st. If such certificate or authority is received by the November 1st deadline, such Supplier currently in the program will be considered a continuing Supplier. New Suppliers and current Suppliers missing the deadline will be considered based on a first date received basis.

Supplier represents and confirms that it is qualified to conduct business within the State of Nebraska as a Shipper in Black Hills Nebraska Gas' Choice Gas program and warrants that it will

continue to be certified or otherwise in good standing before the Nebraska Public Service Commission governing Black Hills Nebraska Gas' Gas Choice Program. Upon request of Black Hills Nebraska Gas, Shipper shall provide copies of certificates or other official communication and authority affirming a Shippers continued "good standing" and "qualification" from the Commission governing Black Hills Nebraska Gas Choice Gas Program in Nebraska.

Black Hills Nebraska Gas reserves the unilateral right to limit or to reject participation of a Supplier who fails to meet the Black Hills Nebraska Gas Choice Gas Program qualification requirements.

4. **Firm Supply Commitment:** Supplier shall provide gas supply to its Customers on a firm basis. Additionally, Supplier shall deliver daily quantities on a firm basis into the Black Hills Nebraska Gas distribution system at the Receipt Point(s) set forth on Exhibit A attached hereto and made a part hereof, in an amount sufficient to meet the actual daily consumption of each Supplier's Customers.

If Supplier defaults on its obligations in this Agreement and fails to deliver gas at the Receipt Point(s) on any day, the Supplier agrees that Black Hills Nebraska Gas will require payment for each Dth of gas that Supplier fails to deliver at a price equal to the highest actual cost incurred by Black Hills Nebraska Gas to replace all or part of Supplier's undelivered gas. Such actual cost of replacement gas shall include, but not be limited to, transportation costs, imbalance penalties, penalties for unauthorized receipts or deliveries in violation of an operational flow order, and any customer relighting costs which are incurred by Black Hills Nebraska Gas as a result of Supplier's failure to deliver gas in accordance with this Agreement. In order to recover the costs related to a Supplier default, Black Hills Nebraska Gas will first use the Supplier's letter of credit or other performance assurances. Black Hills Nebraska Gas will subsequently apply any payables owed Supplier to recover additional costs related to supplier default.

5. **Firm Supply Warranty:** Supplier warrants the firm sale and delivery of gas to Customers under this Agreement at the Receipt Points set forth on Exhibit A attached hereto and made a part hereof. Supplier shall be deemed to have delivered on any day such quantities of gas allocated to Supplier by Tallgrass Interstate Gas Transmission, LLC ("TIGT"), its successor, or other transporting pipeline.

6. **Choice Gas Supplier Fee:** Black Hills Nebraska Gas shall withhold the Supplier Fee, as that term is defined in the Tariff, from the monthly payment to Supplier, per premise billed, per month as set forth in this Agreement. The Supplier Fee shall be as stated in the Tariff effective June 1st of the applicable Choice Gas Program year.

7. **Payment:** Supplier shall make any payment due Black Hills Nebraska Gas no later than 15 days after receipt of invoice, and interest at the rate of 1.5% per month shall accrue and be paid on any late payments. In the event of suit or other action to recover money due under this Agreement, Black Hills Nebraska Gas shall be entitled to recover 100% of its costs of collection, including attorneys' fees, as permitted by law. Without limiting any other remedy, Black Hills Nebraska Gas shall also have the right to offset any unpaid amounts due Black Hills Nebraska Gas from payments otherwise owed or remitted to Supplier.

8. Credit and Performance Assurances: At least sixty (60) days prior to the commencement of a Choice Gas Program Year, Supplier shall provide Black Hills Nebraska Gas performance assurances evidencing Supplier's ability to perform its obligations and meet its commitments under this Agreement. Such assurances shall be in the form of a Letter of Credit that is in a form acceptable to Black Hills Nebraska Gas or in the form of an unconditional Parent Guaranty, attached hereto and made a part hereof, for any subsidiary debt in lieu of the Letter of Credit; provided the parent company holds an investment grade credit rating, or other form of performance acceptable to Black Hills Nebraska Gas. In order to qualify as a new Supplier under Black Hills Nebraska Gas' Choice Gas Program(s), Supplier agrees to provide Black Hills Nebraska Gas with three years of audited financial statements Supplier agrees to provide notice to the Black Hills Nebraska Gas in writing no later than five (5) days from the event of any material changes in Supplier's financial conditions that could affect Supplier's ability to perform its obligations and meet its commitments pursuant to this Agreement, including, but not limited to, a downgrade in Supplier's credit rating. Failure to provide such notice shall deem the Supplier to be in breach of this Agreement, and subject to disqualification from participation in the Program.

9. Rates to Customers: Supplier's rates shall be established by Supplier in the competitive marketplace, subject only to such requirements as are reasonably necessary to allow Black Hills Nebraska Gas to efficiently administer the billing and collection of such rates from Customers without incurring undue added costs. All rates which are stated as a rate per unit shall be stated in therms. Supplier agrees to notify Black Hills Nebraska Gas at least one full day prior to the next monthly billing cycle regarding any change in Supplier's rates to Customers. Supplier agrees that, in the event it offers fixed gas supply prices to customers for any duration, Supplier is solely responsible for the entirety of any financial risk associated with such offering(s), including but not limited to changes to regulated service rates both on-system as well as on upstream third-party providers of services.

10. Gas Quality and Tariff Requirements: Supplier agrees to comply with all tariff provisions, rules, regulations, and service agreement provisions regarding gas quality, transportation, delivery, and storage of TIGT or other upstream pipelines delivering gas at any Receipt Point hereunder, including, but not limited to, compliance with the appropriate tariff provisions that will allow Supplier to retain the maximum released No-Notice Contractual Maximum Daily Withdrawal Quantity between November 1 and March 31 of each year. Supplier agrees to provide Black Hills Nebraska Gas with its No-Notice Storage ("NNS") balances, at any time, from TIGT or other upstream pipelines and agrees to execute any documents required by TIGT or other upstream pipelines to allow Black Hills Nebraska Gas access to such information. All applicable tariff provisions of TIGT or other upstream pipelines, including definitions, are incorporated herein and made a part hereof by reference; provided, however, that the provisions of this Agreement shall govern in the event of any conflict with the tariff provisions of TIGT or other upstream pipelines.

11. Equal Treatment: In accordance with applicable laws and regulations, Black Hills Nebraska Gas will provide fair and equitable treatment in customer and public communications and in administration of the Choice Gas Program to suppliers. Upon request, Black Hills Nebraska Gas will inform its customers that the participating suppliers have met specified qualification standards.

12. General Supplier Representations and Warranties: Supplier hereby represents and warrants that it is experienced in providing firm natural gas supply service; that it has prior to executing this Agreement obtained a Competitive Natural Gas Provider certificate from the Nebraska Public Service Commission; that it has obtained any other authorization required to conduct business, that it meets the customer and volume obligations required to participate as a Supplier, that it has adequate firm gas supplies to meet its obligations to serve all Customers in the Choice Gas Program that elect Supplier to provide gas supply; that it is ready and capable of meeting the financial obligations and assurances required hereunder; and that it presently has and will maintain adequate resources, full-time personnel, facilities and equipment, including computers, communication equipment, electronic bulletin board interface capabilities, and 24-hour on-call gas control capabilities.

Supplier also represents and warrants that it will meet all tariff requirements and directives of TIGT or other upstream pipelines with respect to required storage inventories. Supplier agrees to allow Black Hills Nebraska Gas to seek such information directly from the applicable upstream pipeline.

Supplier, to the extent that it is serving Customers under this Agreement under multi-year agreements, also represents and warrants that it will take those actions necessary to remain eligible to execute, and will execute, supplier participation agreements in the future that permit it to fulfill its obligations under its existing multi-year deals.

13. Supplier Authorizations: Supplier authorizes Black Hills Nebraska Gas and Black Hills Nebraska Gas agrees:

- a) To receive and transport Supplier's gas on Black Hills Nebraska Gas's distribution pipeline facilities,
- b) To deliver Supplier's gas less Retention Quantity to Supplier's Customers,
- c) To measure the quantities of gas delivered to Customers using meters owned and operated by Black Hills Nebraska Gas and located on or near Customers' premises,
- d) To invoice Supplier's Customers as a separate line item on Black Hills Nebraska Gas's gas utility service bill, for gas quantities delivered to Customers at the prices offered by Supplier and accepted by Customers, as provided to Black Hills Nebraska Gas by Supplier and reflected in the account information for said Customers,
- e) To collect payment from Supplier's Customers for the gas supply the Customer purchases from Supplier and are billed by Black Hills Nebraska Gas,
- f) To remit payment to Supplier by electronic transfer on or before the 20th day of the month for Supplier's gas supplies billed to Customers in the preceding month, net of any allowable deductions. Prior period adjustments may be taken

into account in the determination of billed gas supplies, estimated payments or reconciliation payments. Black Hills Nebraska Gas will perform all calculations made under this paragraph. Black Hills Nebraska Gas may make deductions from such payment.

- g) To be responsible for any collections and bad debt expenses associated with Customers billed by Black Hills Nebraska Gas not collected through the Supplier Fee; however, Black Hills Nebraska Gas may make deductions from such payment where the collection or bad debt for gas cost is unsuccessful. Black Hills Nebraska Gas will perform all calculations made under this paragraph.
- h) That all rate and volume prior period adjustments that occur within the previous six months will be reflected on the Supplier's monthly payment, if any, and
- i) To bill and collect from Customers any applicable taxes or fees, including franchise or other fees, levied by governmental authorities on the sale or transportation of gas by Supplier to Customers, and to remit such collection to said governmental authorities. For purposes of this provision, payments made by Customers for the purchase of gas from Supplier, which are billed and collected by Black Hills Nebraska Gas on behalf of Supplier, shall be deemed to be "receipts" or "gross receipts" of Black Hills Nebraska Gas for purposes of any tax or fee assessment on the sale or delivery of gas under applicable law or municipal franchise agreement; and
- j) To charge the Supplier a Supplier Fee per premise, billed per month, to recover costs associated with the Choice Gas Program under this Agreement. The Supplier Fee shall be revised annually and stated in the Tariff and shall be an offset to Supplier's monthly payment otherwise due from Black Hills Nebraska Gas.

14. Title, Possession, Taxes and Liability: Supplier shall retain title to its gas until the point of sale and delivery to Supplier's Customers at the Delivery Point located on or near Customers' premises, at which point title will then pass to Customer. Black Hills Nebraska Gas will not purchase or take title to Supplier's gas under this Agreement, but at the Receipt Points will receive gas from Supplier for the account of Supplier's Customers. Supplier grants to Black Hills Nebraska Gas such authorizations as may be required to receive such gas, and to arrange for the receipt, transportation, commingling, and delivery of such gas to Supplier's Customers. Supplier warrants that it has the right to sell the natural gas delivered hereunder and that the natural gas is free from liens and adverse claims of any kind. Supplier will save and hold Black Hills Nebraska Gas and Customers harmless from all loss, damage and expense due to adverse claims against them for the title of the natural gas delivered hereunder. Supplier will pay or cause to be paid all royalties, taxes and other sums due on production and transportation of the natural gas prior to its delivery at the Receipt Points. As between Black Hills Nebraska Gas and Supplier, Supplier shall be deemed to be in control and possession of the natural gas, and responsible for any damage or injuries caused thereby until the natural gas is delivered at the Receipt Point(s),

except for injuries and damage caused by the negligence of Black Hills Nebraska Gas, and Black Hills Nebraska Gas shall be deemed to be in control and possession of the natural gas and responsible for any damage or injuries caused thereby after the natural gas is delivered at the Receipt Point(s) and before it is delivered to Customers, except for injuries and damage caused by the negligence of Supplier. Neither Party hereto shall be liable for incidental or consequential damages.

15. Upstream Pipeline Capacity: Supplier shall utilize Firm Transportation (“FTS”) and NNS services on the upstream pipeline as released by Black Hills Nebraska Gas to Supplier under this Agreement, to deliver Customers’ supply to the Receipt Point(s). Supplier shall transact business directly with the upstream pipeline as related to the upstream (FTS) and NNS transportation services. The level of upstream FTS and NNS services are set forth on Exhibit A as determined by Black Hills Nebraska Gas according to the Tariff and this Agreement. Supplier shall timely execute all appropriate release agreements with the upstream pipeline in order to facilitate the release(s). Any re-release of FTS service to a replacement shipper shall be subject to the terms and provisions of the original capacity release offer from Black Hills Nebraska Gas to Supplier, and any such re-release shall not release Supplier from their obligation to provide firm supply. Suppliers shall not re-release upstream NNS service.

16. Communications and Notices: Supplier will maintain a toll-free phone line which can be directly accessed by Customers or by Black Hills Nebraska Gas.

17. Indemnification: Supplier shall provide this 24-hour toll-free phone line number to Black Hills Nebraska Gas no later than November 1st of the year prior to the start of the next Choice Gas Program year. Supplier must also list this number on any internet website utilized by Supplier for the Choice Gas Program. Black Hills Nebraska Gas shall perform the services described herein in conformance with, and subject to the Tariff. As a material consideration to Black Hills Nebraska Gas for entering into this Agreement, Supplier specifically agrees that Black Hills Nebraska Gas shall not be liable for, and Supplier shall indemnify, keep whole, and hold Black Hills Nebraska Gas harmless from and against any and all claims, damages, injuries, losses, penalties, fines, awards, assessments or liabilities of any kind with respect to the services to be performed by Black Hills Nebraska Gas hereunder and which occur as the result of any cause whatsoever, except to the extent such liability is the result of a material breach of this Agreement by, or willful and wanton misconduct on the part of, Black Hills Nebraska Gas during the term of this Agreement.

18. Force Majeure: If either Party is rendered unable, wholly or in part, by reason of force majeure to carry out its obligations under this Agreement, it shall give notice to the other Party of the force majeure with reasonably full particulars; whereupon the obligations of a Party claiming force majeure so far as they are affected by the force majeure shall be suspended during, but not longer than, the continuance of the force majeure. The claiming Party shall use all possible diligence to remove the force majeure as quickly as possible. However, the requirement to remedy shall not require the settlement of strikes, walkouts, or other labor difficulty; all such difficulties shall be resolved entirely by the sole discretion of the claiming Party. The term “force majeure” as herein employed shall mean any act of God, strike, walkout, or other industrial disturbance, act of the public enemy, war, riot, lightning, fire, storm, flood, earthquake, explosion, repair or

maintenance, governmental regulation or restraint, inability to obtain any required governmental permits or authorizations, interruptions of FTS or NNS services, or any other cause, whether of the kind specifically enumerated above or otherwise, which is not reasonably within the control of the claiming Party. The obligation to make monetary payments hereunder shall not be suspended by reason of any force majeure.

19. Fuel and Lost and Unaccounted For Gas Percentage. On or before January 31st of each year, Black Hills Nebraska Gas will inform Supplier of the stated fuel, lost and unaccounted for gas (“FL&U”) percentage that Black Hills Nebraska Gas has calculated for the upcoming Choice Gas Program year. During the Choice Gas Program year, the balancing provisions described in the Tariff shall apply. After the end of each Choice Gas Program year, Black Hills Nebraska Gas shall reconcile the difference between the stated FL&U percentage in effect for that Choice Gas Program year and the actual FL&U percentage realized during that Choice Gas Program year, relative to Supplier, as follows:

- a) Black Hills Nebraska Gas shall calculate the FL&U volume that Black Hills Nebraska Gas would have retained from Supplier during the most recently ended Choice Gas Program year by applying the stated FL&U percentage in effect for that Choice Gas Program year to the summation of the allocated delivery volumes set forth in the monthly statements.
- b) Black Hills Nebraska Gas shall calculate the actual FL&U volume delivered but not billed by subtracting:
 - i. The summation of the allocated delivery volumes of Supplier as set forth in the monthly statements by rendered by Black Hills Nebraska Gas’ electronic bulletin board,
 - ii. The summation of the billed customer volumes for the applicable months of Supplier. The billed customer volumes for the applicable months shall be set forth in Supplier’s monthly payment files.
- c) Black Hills Nebraska Gas shall subtract the FL&U volume that it would have retained (as calculated in paragraph 1) by the actual FL&U volume that Supplier delivered during the most recently ended Choice Gas Program year but that was not billed to customers (as calculated in paragraph 2).
- d) Black Hills Nebraska Gas shall multiply the weighted average price of the Colorado Interstate Company (CIG) – Rocky Mountains first of month index prices, as published in *Platts’ Inside “FERC Gas Market Report”* monthly publication, to the difference, either positive or negative, between the FL&U volume that Black Hills Nebraska Gas should have retained and the actual FL&U volume that Supplier delivered during the most recently ended Choice Gas Program year but that was not billed to customers. The weighted average price shall be based on the total allocated delivery volumes for all participating suppliers. The same weighted average price shall be used for all participating suppliers.

- a) Black Hills Nebraska Gas shall be entitled to make ratable adjustments to the final reconciliation amount due to or from Supplier for its actual gas cost associated with any operations purchases that Black Hills Nebraska Gas is required to make during the Choice Gas Program year.
- b) Black Hills Nebraska Gas's calculation shall produce a dollar amount, either positive or negative, for each participating supplier. If the dollar amount is positive, Black Hills Nebraska Gas shall owe that dollar amount to Supplier. If the dollar amount is negative, Supplier shall owe that dollar amount to Black Hills Nebraska Gas.
- c) On or before August 1 of each year, Black Hills Nebraska Gas shall communicate to Supplier the dollar amount owed to or owed by Supplier. The dollar amount owed to or owed by Supplier, respectively, shall be added to or netted against the payment that Black Hills Nebraska Gas shall remit to the Supplier by electronic transfer in August of each year. In the event that a Supplier's participation in the Residential/Commercial Choice Gas Program terminates during or at the end of the program year covered by this Agreement, Black Hills Nebraska Gas may withhold the final payment owed to the Supplier for a period sufficient to allow the foregoing calculation to be made and communicated to the Supplier.

20. Term: This Agreement shall be effective on the date first above stated for the annual Choice Gas Program Year commencing on January 1, 2024 and shall continue in effect until December 31, 2024, unless terminated earlier in accordance with this Agreement.

21. Termination: Black Hills Nebraska Gas may terminate this Agreement upon written notice to Supplier upon any of the following conditions: i) if Supplier substantially fails to deliver gas in accordance with this Agreement, or ii) if Supplier materially breaches to comply with any other provisions of this Agreement or the Tariff, including submitting false information to Black Hills Nebraska Gas regarding Customer subscription and lack of confirmation with Customer, and Supplier shall be barred from any further participation in the Choice Gas Program. If this Agreement is terminated due to non-performance by the Supplier, Supplier is obligated to reimburse Black Hills Nebraska Gas for the actual cost of replacement. Actual Cost of replacement gas includes, but is not limited to, commodity supply costs, transportation costs, imbalance penalties, penalties assessed by third parties for unauthorized receipts or deliveries in violation of an operational flow order, as well as any customer relighting costs which are incurred by Black Hills Nebraska Gas as a result of Supplier's failure to deliver gas to its Customers in accordance with this Agreement. Black Hills Nebraska Gas shall invoice Supplier for the reimbursement amount, if any, and payment shall be due to Black Hills Nebraska Gas thirty (30) days after the invoice date. Interest shall accrue on the reimbursement amount from the termination of this Agreement to the date payment is made by Supplier to Black Hills Nebraska Gas.

22. Entire Agreement: This Agreement will supersede and replace any and all previous contracts between Black Hills Nebraska Gas and Supplier addressing Supplier's rights and obligations under the Choice Gas Program.

23. **Remedies**: All rights and remedies provided in this Agreement are cumulative and not exclusive of any other rights or remedies that may be available to the parties, whether provided by law, equity, statute, in any other agreement between the parties or otherwise.

24. **Assignment**: This Agreement shall extend to and be binding upon the Parties hereto, their respective successors and assigns, provided, however, that no assignment hereof shall be made by either Party without written notification to the other Party and the receipt of written consent by the other Party.

25. **Severability**: Any provision of this Agreement, which is determined to be invalid or unenforceable, will be ineffective to the extent of such determination without invalidating the remaining provisions of this Agreement or affecting the validity or enforceability of such remaining provisions.

26. **Survival**: The indemnification, warranties, liability and financial assurance provisions set forth herein shall survive any termination of this Agreement.

27. **Governing Law**: This Agreement shall be governed by, construed and enforced in accordance with the laws of the State of Nebraska.

28. **Amendments**: Modifications or amendments to this Agreement shall only be valid and enforceable when made in writing and executed by both Parties hereto.

29. **Miscellaneous**: No waiver by either Party with respect to any breach or default, or of any right or remedy, and no course of dealing, shall be deemed to constitute a continuing waiver of any other breach or default, or of any such right or remedy, unless such waivers be expressed in writing signed by the Party to be bound. The entire Agreement is contained herein, and no statement or agreements, oral or written, made prior to or at the signing hereof, shall vary or modify the written terms hereof. The terms of this Agreement shall not be varied, modified, explained or supplemented by evidence of usage of trade or course of performance or dealing. To the extent that the terms of this Agreement are inconsistent with the applicable Black Hills Nebraska Gas Tariff provisions, the provisions of the Tariff shall govern. Exchange by facsimile transmission of this signed Agreement or Appendix, Schedule, Exhibit, or any amendment hereto shall constitute evidence of a binding Agreement which is legally enforceable.

EXECUTED TO BE EFFECTIVE the day and year first above written.

ACE (Public Alliance for Community Energy)

BY: Jamie L. Johnson

Name: Jamie L. Johnson

Title: Director of Finance and Accounting

BLACK HILLS NEBRASKA GAS, LLC

BY: _____

Name: _____

Title: _____

EXHIBIT A

**CHOICE GAS TRANSPORTATION FOR NEBRASKA
RECEIPT POINTS AND ASSIGNED UPSTREAM CAPACITY**

RECEIPT POINTS INTO BLACK HILLS NEBRASKA GAS:

The Receipt Points to be used by Supplier hereunder are included in the Receipt Point data shown on Exhibit A to the Supplier Participation Agreement for Jurisdictional Residential and Commercial, Non-Contract Industrial and Non-Irrigation and Non-Grain Drying Agricultural Customers executed by Supplier and Black Hills Nebraska Gas.

UPSTREAM ASSIGNED CAPACITY; VOLUME AND POINTS

The Upstream Assigned Capacity; Volume and Points applicable to Supplier hereunder are included in the Upstream Assigned Capacity; Volume and Points shown on Exhibit A to the Supplier Participation Agreement for Jurisdictional Residential and Commercial, Non-Contract Industrial and Non-Irrigation and Non-Grain Drying Agricultural Customers executed by Supplier and Black Hills Nebraska Gas.

Accepted and agreed to this ____ day of _____, 20__, and incorporated into and made a part of the Choice Gas Program Supplier Participation Agreement between the Parties.

BLACK HILLS NEBRASKA GAS, LLC

**ACE
(Public Alliance for Community Energy)**

By: _____

By: Jamie L. Johnson

Name:
Title:

Name: Jamie L. Johnson
Title: Director of Finance and Accounting

**APPENDIX C
PARENT GUARANTY
(NEBRASKA)**

This GUARANTY (“Guaranty”) is made this 1st day of January, 2024, by (“Guarantor”), in favor of Black Hills Utility Holdings, Inc. (“Beneficiary”) on behalf of its subsidiaries Black Hills Nebraska Gas Distribution LLC, Black Hills Wyoming Gas, LLC or both subsidiaries (“Black Hills Subsidiaries”)

WHEREAS, **ACE (Public Alliance for Community Energy)** (“Supplier”) and either Black Hills Nebraska Gas, LLC, Black Hills Wyoming Gas, LLC or both Black Hills Subsidiaries, have entered, or may enter into certain agreement(s) regarding Supplier’s participation as a supplier of natural gas in one or more Black Hills Subsidiaries’ Choice Gas Transportation Service Program (“Choice Gas Program”) (the “Agreement”); and

WHEREAS, Guarantor will directly or indirectly benefit from the Agreement;

NOW THEREFORE, in consideration of the premises and for other good and valuable consideration, including inducing Beneficiary to enter into the Agreement with the Supplier, the Guarantor hereby covenants and agrees as follows:

1. Guaranty. Subject to the terms and conditions hereof, Guarantor hereby irrevocably, absolutely and unconditionally guarantees the timely payment when due, subject to any applicable grace period, of all of the present and future obligations and liabilities of every kind of Supplier to Beneficiary under or in connection with the Agreement (the “Obligations”). To the extent that Supplier shall fail to pay any Obligation, Guarantor shall promptly pay to Beneficiary the amount due upon Beneficiary’s demand therefor. This Guaranty shall constitute a guarantee of payment and not of collection. Guarantor shall also be liable for the payment, on demand, of the fees and expenses of Beneficiary (including, without limitation, the reasonable fees and expenses of Beneficiary’s external counsel) incurred in any effort to collect or enforce any of the Obligations, or for the protection of Beneficiary’s rights, under this Guaranty; provided, however, that Guarantor shall not be liable for any such expenses of Beneficiary if no payment on account of the Obligations is then due hereunder.

2. Limitations. Guarantor’s liability hereunder shall be limited to payments expressly required to be made by Supplier under the Agreement (even if such payments are deemed to be damages) and in no event shall Guarantor be subject hereunder to indirect, special, consequential, exemplary, equitable, loss of profits, punitive, or any other damages, except to the extent specifically provided in this Guaranty or the Agreement. The aggregate amount of Obligations covered by this Guaranty shall not exceed U.S. \$ _____, plus the fees and expenses of Beneficiary payable by Guarantor as provided in Section 1 above.

3. Termination. The term of this Guaranty shall begin on January 1, 2024, and shall continue for so long as Supplier’s contractual obligations to the Black Hills Subsidiaries are in effect; provided however that Guarantor shall remain fully liable hereunder for Obligations of Supplier accruing prior to the end of the term of this Guaranty.

4. Subrogation and Subordination.

(a) Guarantor waives its right to be subrogated to the rights of Beneficiary with respect to any Obligations paid or performed by Guarantor until all Obligations have been fully and indefeasibly paid

to Beneficiary, subject to no rescission or right of return and Guarantor has fully and indefeasibly satisfied all of Guarantor's obligations under this Guaranty.

(b) Without limiting Beneficiary's or Guarantor's rights under any other agreement, any liabilities owed by Supplier to Guarantor in connection with any financial accommodation by Guarantor to or for the account of Supplier (including amounts paid by Guarantor hereunder with respect to the Obligations) are hereby subordinated to the payment in full of the Obligations, and such liabilities of Supplier to Guarantor, if Beneficiary so requests upon a breach of the Agreement, shall be collected, enforced and received by Guarantor as trustee for Beneficiary and shall be paid over to Beneficiary on account of the Obligations, but without reducing or affecting in any manner the liability of Guarantor under the other provisions of this Guaranty.

5. Waivers. Guarantor hereby waives: (a) notice of acceptance of this Guaranty; (b) presentment and demand concerning the liabilities of Supplier or Guarantor; (c) notice of any dishonor or default by, or disputes with, Supplier; (d) diligence; (e) promptness; (f) all other notices required by law (except notice of Supplier's default); and (g) any right to require that Beneficiary bring any action or proceeding against Supplier or any other person, or to require that Beneficiary seek enforcement of any performance against Supplier or any other person, prior to any demand for payment or other action against Guarantor under the terms hereof. Guarantor agrees that Beneficiary may, at any time and from time to time, without notice to or consent of Guarantor and without impairing or releasing the liability and obligations of Guarantor hereunder: (i) renew, increase, compromise, extend, accelerate or otherwise modify the terms of the Obligations; (ii) take or fail to take any action of any kind in respect of any collateral for any Obligation or liability of Supplier to Beneficiary; (iii) compromise or subordinate any Obligation or liability of Supplier to Beneficiary, including any collateral therefor; and (iv) change, modify or waive any of the terms of the Agreement. Except as to applicable statutes of limitation, no delay of Beneficiary in the exercise of or failure to exercise any rights hereunder shall operate as a waiver of such rights, a waiver of any other rights, or a release of Guarantor from any obligations hereunder.

6. Reservations. Guarantor reserves to itself all right, setoffs, counterclaims and other defenses to which Supplier may have to payment of any indebtedness under the Agreement, other than (a) defenses arising from the bankruptcy or insolvency of Supplier, (b) illegality, and (c) any other defenses expressly waived by Supplier in its Agreement with the Beneficiary or otherwise waived in this Guaranty.

7. Notice. Any payment demand, notice, correspondence or other document or communication to be given hereunder by any party to another (herein collectively called "Notice") shall be in writing and delivered personally or mailed by certified mail, postage prepaid and return receipt requested, or by facsimile, to the following addresses:

If to Guarantor:

_____, _____

Attn: _____
Fax No. (____) ____ - ____.
Email:
Phone:

If to Beneficiary: Black Hills Nebraska Gas, LLC
 Treasury Department
 7001 Mt. Rushmore Rd
 Rapid City, SD 57701
 Attn: Chief Risk Manager

Notice given by personal delivery, email, or mail shall be effective upon actual receipt. If receipt by personal delivery is refused or rejected, then notice shall be effective upon attempted delivery. Notice given by facsimile or by email shall be effective upon actual receipt if received during the recipient's normal business hours, or at the beginning of the recipient's next business day after receipt if not received during the recipient's normal business hours. All Notices by facsimile or email shall be confirmed by the sender promptly after transmission in writing by mail or personal delivery. Any party may change any address to which Notice is to be given to it by giving Notice as provided above of such change of address.

8. Miscellaneous. THE GUARANTY SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE SOUTH DAKOTA AND IS INTENDED TO BE PERFORMED IN ACCORDANCE WITH AND TO THE EXTENT PERMITTED BY SUCH LAWS. No term or provision of this Guaranty shall be amended or modified except in a writing signed by Guarantor and Beneficiary. This Guaranty may not be assigned by a party without the prior written consent of the other party. Subject to the foregoing, this Guaranty shall be binding upon Guarantor, its successors, and permitted assigns, and shall inure to the benefit of and be enforceable by Beneficiary, its successors and permitted assigns. This Guaranty embodies the entire agreement and understanding between Guarantor and Beneficiary, and supersedes all prior communications between Guarantor and Beneficiary, whether written or oral, concerning the subject matter hereof.

[Signature page follows.]

IN WITNESS HEREOF, Guarantor has duly executed this Guaranty this __ day of _____, 20__.

[GUARANTOR]

BY: _____

NAME: _____

TITLE: _____