

**PRESENTED AT**  
**18TH ANNUAL**  
**GAS AND POWER INSTITUTE**

September 26-27, 2019  
Houston, TX

**Redline of Selected**  
**Key Changes by Drafting Team**

**K.C. Hairston**

Author Contact Information:  
K.C. Hairston  
Balch & Bingham LLP  
Birmingham, AL



North American Energy Markets Association



International Energy Credit Association

## 2019 Power and Gas Master Agreement

*This model form has been prepared only as a generic template and may not contain all of the provisions that may be required by the parties to an actual agreement. The provisions of this model form do not necessarily represent the views of NAEMA or IECA, or any of its members. Use of this model form or any portion or variation thereof shall be at the sole discretion and risk of the user parties. Users of this model form or any variation thereof are encouraged to seek the advice of qualified legal counsel to ensure that the final document reflects the actual agreement of the parties. NAEMA and IECA disclaim any and all interests or liabilities whatsoever for loss or damages that may result from use of this model form or portions or variations thereof.*

## Table of Contents

Article One:	Purpose, Applicability and Governance .....	1
Article Two:	General Definitions .....	1
Article Three:	Transaction Terms and Conditions.....	7
Article Four:	Obligations and Deliveries.....	8
Article Five:	Remedies for Failure to Deliver or Receive .....	9
Article Six:	Events of Default; Remedies.....	9
Article Seven:	Payment and Netting .....	14
Article Eight:	Limitations .....	15
Article Nine:	Credit and Collateral Requirements .....	16
Article Ten:	Governmental Charges .....	18
Article Eleven:	Miscellaneous.....	18
SCHEDULE G:	GAS TRANSACTIONS .....	G-1
EXHIBIT G1:	GAS TRANSACTION CONFIRMATION.....	G1-1
SCHEDULE M:	FEDERAL POWER MARKETING AGENCY .....	M-1
SCHEDULE P:	PRODUCTS AND RELATED DEFINITIONS .....	P-1
SCHEDULE Q:	POST-MAPP PRODUCT .....	Q-1
PRODUCT M:	GENERAL PURPOSE ENERGY SERVICE.....	Q-2
EXHIBIT A:	TRANSACTION CONFIRMATION .....	A-1
EXHIBIT B:	SUPPLEMENTAL TERMS .....	B-1

## 2019 POWER AND GAS MASTER AGREEMENT

This 2019 Power and Gas Master Agreement (“**Master Agreement**”)  
made as of \_\_\_\_\_

by \_\_\_\_\_ (“**Party A**”)  
and \_\_\_\_\_ (“**Party B**”).

### Article One: Purpose, Applicability and Governance

1.1 Purpose. The purpose of this ~~Tariff~~ Master Agreement is to provide for sales of Product by ~~NAEMA Members~~ the Parties.

~~1.2 Applicability. Services under this Tariff are applicable to NAEMA Members.~~

1.2 Disclaimer. This Master Agreement was prepared by NAEMA and IECA to facilitate orderly trading in and development of wholesale power, gas and associated markets. Neither NAEMA, IECA nor any of their members, agents, representatives or attorneys shall be responsible for its use, or any damages resulting therefrom, except as expressly provided herein. By providing this Master Agreement, NAEMA and IECA do not offer legal advice, and all users are urged to consult their own legal counsel to ensure that their commercial objectives will be achieved and their legal interests are adequately protected.

### Article Two: General Definitions

2.1 “**Affiliate**” means, with respect to any person, any other person (other than an individual) that, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, such person. For this purpose, “control” means the direct or indirect ownership of fifty percent (50%) or more of the outstanding capital stock or other equity interests having ordinary voting power.

2.2 “**Agreement**” means this Master Agreement, including its exhibits (including but not limited to the Supplemental Terms attached hereto as Exhibit B), schedules and any written supplements, any collateral, credit support or margin agreement or similar arrangement between the Parties to a Transaction, and all Transactions (including any Confirmations).

2.3 “**Bankrupt**” means, with respect to any entity, such entity (i) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy, insolvency, reorganization or similar law, or has any such petition filed or commenced against it; (ii) makes an assignment or any general arrangement for the benefit of creditors; (iii) otherwise becomes bankrupt or insolvent (however evidenced); (iv) has a liquidator, administrator, receiver, trustee, conservator or similar official appointed with respect to it or any substantial portion of its property or assets; or (v) is generally unable to pay its debts as they fall due.

2.4 “**Business Day**” means any day except a Saturday, a Sunday, a Federal Reserve Bank holiday, or a Canadian banking holiday where the Buyer or Seller has its principal place of business located in Canada. A Business Day shall open at 8:00 a.m. and close at 5:00 p.m. local time for the relevant Party’s principal place of business. The relevant Party, in each instance

unless otherwise specified, shall be the Party ~~from to~~ whom the notice, payment or delivery is being sent ~~and by whom the notice or payment or delivery is to be received~~.

2.5 **“Buyer”** means the Party to a Transaction that is obligated to purchase and receive, or cause to be received, the Product, as specified in the Transaction.

2.6 **“Call Option”** means an Option entitling, but not obligating, the Option Buyer to purchase and receive the Product from the Option Seller at a price equal to the Strike Price for the Delivery Period for which the Option may be exercised, all as specified in the Transaction. Upon proper exercise of the Option by the Option Buyer, the Option Seller shall be obligated to sell and deliver the Product for the Delivery Period for which the Option has been exercised.

2.7 **“Claiming Party”** has the meaning set forth in Section 4.3.

2.8 **“Claims”** means all third party claims or actions, threatened or filed and whether groundless, false, fraudulent or otherwise, that directly or indirectly relate to the subject matter of an indemnity, and the resulting losses, damages, expenses, attorneys’ fees and court costs, whether incurred by settlement or otherwise, and whether such claims or actions are threatened or filed prior to or after the termination of the Agreement.

2.9 **“Confirmation”** has the meaning set forth in Section 3.1.

2.10 **“Contract Price”** means the price in U.S. Dollars (unless otherwise provided for) to be paid by Buyer to Seller for the purchase of the Product, as specified in the Transaction.

2.11 **“Costs”** means, with respect to the Non-Defaulting Party, brokerage fees, commissions and other similar third party transaction costs and expenses reasonably incurred by such Party either in terminating any arrangement pursuant to which it has hedged its obligations or entering into new arrangements which replace a Terminated Transaction; and all reasonable attorneys’ fees and expenses incurred by the Non-Defaulting Party in connection with the termination of a Transaction.

2.12 **“Credit Rating”** means, with respect to ~~a Party (or its Guarantor, if applicable) (i) the rating then assigned to the any entity, on any date of determination, the respective ratings (or lowest rating, if there is a difference) then assigned by S&P or Moody’s to such entity’s unsecured, senior long-term debt obligations (not supported by third party credit enhancements) or, in the absence of such a debt rating, to such entity that such entity does not have a rating for its senior unsecured long term debt, the rating then assigned as an issuer rating. In either case the rating shall refer to the rating then assigned by S&P, Moody’s, or any other rating agency agreed to by the Parties as set forth in the Supplementary Agreement attached hereto as Exhibit B as a corporate credit or issuer rating.~~

2.13 **“Defaulting Party”** has the meaning set forth in Section 6.1.

2.14 **“Delivery Period”** means the period of delivery for a Transaction, as specified in the Transaction.

2.15 **“Delivery Point”** means the point at which the Product shall be delivered and received, as specified in the Transaction.

Also available as part of the eCourse

[2019 Gas and Power eConference](#)

First appeared as part of the conference materials for the  
18<sup>th</sup> Annual Gas and Power Institute session

"The Market's Recent Evolution to Simplifying Power and Gas Transactions"