

Agreement for Prepaid Costs

THIS AGREEMENT FOR PREPAID COSTS ("Agreement") is executed between [INSERT COMPANY NAME], a Massachusetts corporation, whose address is One NSTAR Way, Westwood, Massachusetts 02090 ("Company") and _____, a _____, whose address is _____, Massachusetts _____ ("Customer").

Recitals:

A. Customer is developing a commercial facility or residential development at _____, in the City of _____, Massachusetts (the "Facility"). The Customer has requested that the Company provide electric delivery service to the Facility, in accordance with its standard tariffs and terms and conditions of service, as filed with the Massachusetts Department of Telecommunications and Energy ("Electric Service"), and Company and Customer have executed, or will execute contemporaneously herewith, any and all documentation required to establish Electric Service to the Facility.

B. The Company has determined that a significant amount of design, engineering and construction work ("Work") will be required to provide Electric Service to the Facility. In order to permit the Company to undertake such design and engineering work in advance of assurance that the Facility will in fact generate revenue for the Company, and to assure that the Company is compensated for such Work, the Company has requested, and the Customer is willing to make a pre-payment of estimated design and engineering costs, subject to the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the foregoing, the mutual promises set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Company and Customer hereby agree as follows:

1. Pre-Payment for Work. Prior to commencement of the Work by the Company, the Customer shall pay to the Company an amount determined by the Company in its reasonable discretion, representing a portion of the Company's approximation of the total cost of the Work, depending on the type and scope of the Facility (the "Prepaid Cost"). Such payment shall be made by Customer check, payable to the Company and delivered to the Company along with the completed service application or other request for service.
2. Administration of the Prepaid Cost. The Company shall hold the Prepaid Cost on its books of record to the Customer's work order. No interest shall accrue on the Prepaid Cost, which shall be deemed for all purposes to be the funds of the Company.
3. Application of the Prepaid Cost. The Company shall apply the Prepaid Costs to the costs of the Work accrued to the Customer's work order from time to time as the Work progresses, until such funds are expended.
4. Refund of Prepaid Cost. To the extent that the actual cost of the Work is less than the Prepaid Cost, after completion of the Customer Cost Analysis, pursuant to the Company's Terms and Conditions of Service, as amended from time to time and approved by the Massachusetts Department of Telecommunications and Energy, the Company shall refund any remaining amount of the Prepaid Cost to the Customer.

5. No Implied Limitation. Neither the Company's approximation of the cost of the Work, nor the Company's acceptance of the Prepaid Cost, shall be construed as a representation by the Company that the actual cost of the Work shall not exceed the Prepaid Cost, and shall not limit or restrict the Company from billing the Customer for the full actual cost of the Work, as determined by the Company upon completion, in accordance with its Terms and Conditions of Service.
6. Notices. All notices and other communications hereunder will be in writing. Any notice or other communication hereunder shall be deemed duly given (i) upon confirmation of facsimile, (ii) one business day following the date sent when sent by overnight delivery and (iii) five business days following the date mailed when mailed by registered or certified mail return receipt requested and postage prepaid at the following address:

If to Company:

[Company]
One NSTAR Way
Westwood, MA 02090
Attention: _____

If to Customer:

7. No Third Party Beneficiaries. This Agreement shall not confer any rights or remedies upon any third party.
8. No Joint Venture. Nothing in this Agreement creates or is intended to create an association, trust, partnership, joint venture or other entity or similar legal relationship between the parties, or impose a trust, partnership or fiduciary duty, obligation, or liability on or with respect to either party.
9. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the Parties named herein and their respective successors and assigns and successors in title to the Facility. No party shall transfer or assign this Agreement or any rights and obligations hereunder to any person without the prior written consent of the other party, which shall not be unreasonably withheld, provided that the assignor shall remain fully liable for the performance and payment of all obligations.
10. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which together will constitute one and the same instrument.
11. Headings. The section headings contained in this Agreement are inserted for convenience only and shall not affect in any way the meaning or interpretation of this Agreement.
12. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts. Nothing herein is intended to modify or conflict with any rate, term or condition of any tariff filed by Company with any regulatory agency or authority. In the event of such conflict, the provisions of the filed rate, term or tariff shall control.
13. Amendments. No amendment of any provision of this Agreement shall be valid unless the same shall be in writing and signed by all parties.

14. Severability. Any term or provision of this Agreement that is invalid or unenforceable shall not affect the validity or enforceability of the remaining terms and provisions hereof.
15. Construction. Ambiguities or uncertainties in the wording of this Agreement will not be construed for or against any party, and there shall be no presumption that this Agreement or any provision hereof be construed against the party that drafted this Agreement.
16. Complete Agreement. This Agreement contains all the agreements of the parties with respect to the subject matter thereof and supersedes all prior or contemporaneous dealings between them with respect to such subject matter.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as a sealed instrument by and through their respective duly authorized representatives, as of the date first above written.

[COMPANY]

By: _____
Title: _____

[CUSTOMER]

By: _____
Title: _____