

**“SHARE THE WARMTH” AGREEMENT**

THIS “SHARE THE WARMTH” AGREEMENT (“Agreement”), is entered into this \_\_\_\_ day of \_\_\_\_\_ (the “Effective Date”) by and between Texas Gas Service, a division of ONE GAS Inc., having a place of business at: 1301 South Mopac, Suite 400, Austin, Texas (hereinafter the “Company”) and Hidalgo Community Services Agency having a place of business at: 2524 N Closner Blvd, Edinburg, TX 78541 (hereinafter “Charitable Organization”) are each a “Party”, and are collectively the “Parties” to this Agreement.

**WITNESSETH:**

WHEREAS, Company is a natural gas public utility operating in the State of Texas:

WHEREAS, in the course of its business, Company has become aware that some members of the residential community are unable to afford adequate heating for their residences;

WHEREAS, CHARITABLE ORGANIZATION is an established charitable institution operating in the State of Texas with considerable expertise in the delivery of charitable services to the needy;

WHEREAS, Company possesses no such expertise, but for purposes of this Agreement wishes to rely on the expertise of CHARITABLE ORGANIZATION;

WHEREAS, both CHARITABLE ORGANIZATION and Company desire to initiate a program known as “Share the Warmth” under which Company would aid in the solicitation of private charitable contributions to CHARITABLE ORGANIZATION for payment of the home heating expenses of eligible needy persons;

NOW THEREFORE, in consideration of the mutual benefits derived under this Agreement, the promises and commitments contained herein, and other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, the Parties agree as follows:

**I. Program**

A. Pursuant to the terms of this Agreement, CHARITABLE ORGANIZATION shall establish, maintain, and administer a “Share the Warmth” Program (hereinafter referred to as the “Program”) as follows.

(1) Company shall aid in soliciting charitable contributions to CHARITABLE ORGANIZATION from its customers designated for the Program;

(2) CHARITABLE ORGANIZATION shall utilize the resulting contributions to aid eligible recipients in meeting their Residence Heating Expense (as defined below). The recipients of the amount and form of such aid shall be determined at the sole

discretion of the CHARITABLE ORGANIZATION based upon the eligibility guidelines set forth in the attached Exhibit "A" (the "Guidelines").

(3) CHARITABLE ORGANIZATION may subcontract with other entities in connection with the distribution of Program contributions, and the Guidelines set forth in Exhibit "A" shall apply to all subcontractors.

B. "Residence Heating Expense" shall mean any amount due for any type of residential heating service which is the primary residential heat source of the recipient, or any related expense which in the opinion of CHARITABLE ORGANIZATION is related to the residential heating needs of the recipient.

## **II. Contributions**

A. Company shall solicit Program contributions from its customers, utilizing such methods that the Company believes, in its sole discretion, are reasonable and prudent to solicit said contributions.

B. Acting as agent for CHARITABLE ORGANIZATION (only for the limited purpose described in this section II.B and in section VI below), Company shall receive voluntary contributions to the Program from its customers, including those submitted in conjunction with payment of contributors' gas utility bills to Company. All such contributions designated for the Program by customers of Company and paid to and received by Company shall be processed and periodically accounted for by Company to CHARITABLE ORGANIZATION and, as often as Company deems practicable, all of those designated contributions shall be transferred at least annually to CHARITABLE ORGANIZATION. Company shall not be obligated to obtain any investment return on contributions it receives under the Program, nor is it required to allocate, transfer or pay any actual or imputed investment return, earnings amount or interest thereon to CHARITABLE ORGANIZATION for the period between receipt of such contributions by Company and its transfer thereof to CHARITABLE ORGANIZATION.

## **III. Use of Contributions and Distributions to Recipients**

A. CHARITABLE ORGANIZATION shall distribute the Program contributions to such persons or entities (including subcontractors) it designates to further administer and distribute the contributions to eligible recipients. Such distributions shall be made at the sole discretion of CHARITABLE ORGANIZATION, subject to the Guidelines attached as Exhibit "A."

B. CHARITABLE ORGANIZATION agrees that substantially all of the Program contributions that Company receives and transfers to CHARITABLE ORGANIZATION shall be used for the charitable payment of Residence Heating Expenses for needy persons. No more than ten percent (10%) of such contributions may be used for the direct administration of the Program, and none of such contributions may be used for any other

activities, programs or operations of CHARITABLE ORGANIZATION, or for any purpose. Company may, in its sole discretion, review the actual costs of administering the Program for the purpose of determining reasonableness and necessity. In the event the Parties are unable to agree on the administrative costs of the Program, either Party may terminate the Agreement in accordance with the terms of Article V, subsection A.

#### **IV. Reports**

A. CHARITABLE ORGANIZATION shall submit to Company semi-annual reports reflecting the following information:

- (1) Number of applicants requesting aid under the Program;
- (2) Number of recipients receiving funds from the Program in the reported month and year to date;
- (3) Total funds distributed from the Program in the reported month and year to date;
- (4) Program funds available for distribution;
- (5) CHARITABLE ORGANIZATION's administrative fee; and
- (5) Other information as reasonably requested by Company from time to time.

B. CHARITABLE ORGANIZATION shall deliver to all persons who make contributions to the Program, and to all persons who receive aid under the Program, all reports, statements, returns or other documents necessary or appropriate with respect to establishment and administration of the Program, or otherwise necessary to comply with applicable laws, rules or regulations. Further, CHARITABLE ORGANIZATION shall file and deliver to all taxing or other governmental authorities, and to all persons involved with the Program, all necessary tax forms, reports, statements, returns and documents, including without limitation, statements as to the deductible amount of contributions to the Program under the Internal Revenue Code of 1986, as amended ("Code").

#### **V. Term of Agreement**

A. This Agreement shall commence upon the Effective Date and shall continue until terminated by either Party. Either Party may terminate the Agreement by delivering written notice of termination to the other Party no less than thirty (30) days prior to the effective date of termination. Upon termination of the Agreement, any balance of funds in the Program shall remain the property of CHARITABLE ORGANIZATION, provided that such funds shall be distributed in accordance with the Guidelines.

B. Notwithstanding the foregoing, in the event that CHARITABLE ORGANIZATION at any time ceases to qualify as an exempt organization under Code Section 501(c)(3) described in Code Section 170(c) or if CHARITABLE ORGANIZATION receives notice from the Internal Revenue Service that contributions to CHARITABLE ORGANIZATION will no longer be deemed tax deductible by the donor, CHARITABLE ORGANIZATION shall provide prompt written notice to Company (but in any event within three (3) business days) and this Agreement shall automatically terminate with no further action by the Parties.

C. Upon receiving notice of termination, CHARITABLE ORGANIZATION will place no further orders, or enter into further subcontracts for services, materials, or equipment related the Program. In addition, CHARITABLE ORGANIZATION will delay or terminate all subcontracts and subcontractor work, other than that which is already invoiced or commenced. However, to the extent possible, Company will allow continued delivery of eligible services to those recipients promised services prior to delivery of notice of termination. In the event of termination, CHARITABLE ORGANIZATION will identify any such recipients and negotiate with Company regarding the delivery of services to those customers.

#### **VI. Company Agent of CHARITABLE ORGANIZATION / Warranty of CHARITABLE ORGANIZATION**

A. The Parties hereby acknowledge and designate Company as the agent of CHARITABLE ORGANIZATION for the limited purpose of soliciting, collecting, receiving, and processing of contributions to CHARITABLE ORGANIZATION in connection with the Program. The scope of such agency is expressly limited to the authority contained in this Agreement.

B. Company shall not receive financial compensation from CHARITABLE ORGANIZATION for performance of its services under this Agreement, including serving as agent for CHARITABLE ORGANIZATION in connection with the Program as described herein.

C. Company shall exercise its best reasonable efforts to solicit, collect, receive and process contributions for the Program pursuant to this Agreement; provided that Company does not promise, represent or warrant to CHARITABLE ORGANIZATION that any particular level or amount of contributions for the Program can or shall be collected.

D. CHARITABLE ORGANIZATION represents and warrants that it is authorized to execute and perform this Agreement and establish and conduct the Program, and it will remain at all times during the term of this Agreement, an organization described in Code Sections 501(c)(3) and 170(c). CHARITABLE ORGANIZATION shall indemnify and hold Company harmless from any claim, liability, loss, costs, or expense (including attorneys' fees) arising from a breach of this representation and warranty by CHARITABLE ORGANIZATION.

#### **VII. Miscellaneous**

A. Written notices pertaining to this Agreement shall be in writing and deemed to have

been duly given if delivered via email, in person, by overnight courier, by registered or certified mail (postage prepaid, return receipt requested), or by facsimile with electronic confirmation, to the respective party at the address listed below:

If to the Company:

Texas Gas Service a division of ONE Gas, Inc.  
Attention: Greg Phillips, VP Commercial Natural Gas Distribution  
Care of Carmen Luevanos  
1301 S. Mopac Expressway, Suite 400  
Austin, Texas 78746

And if to CHARITABLE ORGANIZATION:

Name: Hidalgo Community Services Agency  
Address: 2524 N Closner Blvd.  
City, State, Zip: Edinburg, TX 78541  
Email Address: jlongoria@csa-hidalgo.us.  
Attention: Jaime Longoria, Executive Director

B. CHARITABLE ORGANIZATION agrees to keep such books and records (which books and records shall be maintained on a consistent basis and substantially in accordance with generally accepted accounting principles) and shall readily disclose relevant information regarding the administration of the Program under this Agreement, and shall make such information (including electronically stored information) available at CHARITABLE ORGANIZATION's premises for examination and audit by Company and its agents during the term of, and for a period of two (2) years after termination of, this Agreement.

C. CHARITABLE ORGANIZATION shall not make any public statements, including, without limitation, any press releases, with respect to this Agreement and the transactions contemplated hereby without the prior written consent of Company, except as may be required by law.

D. Company shall not be obligated to provide any independent contributions to the Program, nor undertake any other service or action unless expressly required by this Agreement.

E. The Parties acknowledge and agree that Company's performance of services under this Agreement is subject to all applicable laws and regulations pertaining to Company's status as a public utility. Company shall not be obligated to take any action that Company, in its sole discretion, believes would violate any applicable laws and regulations, and Company shall not be liable for failing to perform any such action.

F. The Parties acknowledge and agree that Company is not selling any property or services to any person, and that for financial and tax purposes, Company is not receiving any

revenue, gross income or net income for its own account in connection with the Program and/or this Agreement.

G. No provision of this Agreement shall in any way inure to the benefit of any third person (including the public at large or any individual who may qualify as a recipient of the Program) so as to constitute any such person a third-party beneficiary of this Agreement or of any one or more of the terms hereof, or otherwise give rise to any cause of action in any person not a party hereto.

H. CHARITABLE ORGANIZATION shall not assign the administration of this Agreement, in whole or in part, without the prior written consent of Company. Any assignment in violation of this Section shall be voidable at Company's sole option.

I. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas.

J. Each portion of this Agreement is intended to be severable. If any term or provision hereof is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of this Agreement.

K. No course of dealing, course of performance, or failure of either party strictly to enforce any term, right or condition of this Agreement shall be construed as a waiver of any other term, right or condition. No waiver of a breach of any provision of this Agreement shall be effective unless in writing signed by the Party against whom the waiver is sought to be enforced. No waiver of a breach of any provision of this Agreement shall be construed to be a waiver of any subsequent breach of the same or any other provision.

L. This Agreement may be executed simultaneously in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Signatures on this Agreement and any related documents may be by facsimile, with original signatures to follow.

M. This Agreement constitutes the entire Agreement between the Parties hereto, and, except as provided herein, no prior oral or written representations shall serve to modify or amend this Agreement.

**IN WITNESS WHEREOF** the Parties have caused this Agreement to be executed by their duly authorized officers as of the Effective Date.

Company: Texas Gas Service a division of ONE Gas, Inc.

By: \_\_\_\_\_  
(Signature)

Name: Greg Phillips

Title: Vice President Commercial Natural Gas Distribution

CHARITABLE ORGANIZATION: Hidalgo County Community Services Agency

By: \_\_\_\_\_  
(Signature)

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

PROGRAM PERIOD:

As identified by the individual operating areas.

TYPES OF ASSISTANCE PROVIDED:

- Natural gas
- Electric
- Propane
- Wood
- Fuel oil

NOTE: These are guidelines but on occasion, due to extenuating circumstances, clients may be given special consideration for utility grants upon recommendation and approval.

