

CITY OF STRONGSVILLE, OHIO

ORDINANCE NO. 2025 – 045

By: Mayor Perciak and All Members of Council

**AN ORDINANCE APPROVING, RATIFYING AND AUTHORIZING THE MAYOR'S ENTERING INTO CONTRACTS FOR THE PURCHASE OF SUPPLYING NATURAL GAS FOR VARIOUS MUNICIPAL FACILITIES AND THE WALTER F. EHRSFELT RECREATION & SENIOR CENTER FROM UNITED ENERGY TRADING, LLC, FOR A THREE-YEAR PERIOD, WITHOUT PUBLIC BIDDING, AND DECLARING AN EMERGENCY.**

WHEREAS, by and through Ordinance No. 2022-175, Council approved and authorized the City entering into an agreement with United Energy Trading, LLC for the purpose of supplying natural gas to various City buildings and facilities located within the City of Strongsville for a three-year period to end December 31, 2025; and

WHEREAS, inasmuch as the current agreements for natural gas with the aforementioned United Energy Trading, LLC will expire at the end of this year, the City has determined that it would be in the City's best interests to continue utilizing this current natural gas supplier; and

WHEREAS, in order to participate in the most advantageous pricing available for the supply of natural gas to the City's various municipal buildings, it has become necessary for the City to immediately again enter into agreements with United Energy Trading, LLC for the next three-year period beginning January 1, 2026.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF STRONGSVILLE, COUNTY OF CUYAHOGA AND STATE OF OHIO, BY UNANIMOUS AFFIRMATIVE VOTE:

**Section 1.** That this Council finds and determines, as set out in Article V, § 5 of the City Charter, that it would be in the best interests of the City of Strongsville to again purchase natural gas, without public bidding, for a three (3) year period beginning January 1, 2026 to December 31, 2028, for various municipal facilities and the Walter F. Ehrnsfelt Recreation & Senior Center, from **UNITED ENERGY TRADING, LLC**, a public utility and supplier of natural gas, for the continued and efficient operation of these municipal facilities for the benefit of the public health, safety and welfare, and to conserve public funds.

**Section 2.** That for the reasons aforesaid, this Council hereby approves, ratifies and authorizes the Mayor entering into contracts with **UNITED ENERGY TRADING, LLC**, without public bidding, for the purchase of natural gas for various municipal facilities and the Walter F. Ehrnsfelt Recreation & Senior Center, during a three-year term, in the forms attached hereto as Exhibits A and B, and incorporated herein, and at prices as reflected on the Contract.

**Section 3.** That the funds for the purpose of the aforesaid agreements and expenditures will be appropriated for 2026, and shall be paid for all years of the agreements from the General Fund; Fire Levy Fund; Multi-Purpose Complex Fund; Sanitary Sewer Fund; Street Construction, Maintenance and Repair Fund; and Southwest Emergency Dispatch Fund.

CITY OF STRONGSVILLE, OHIO

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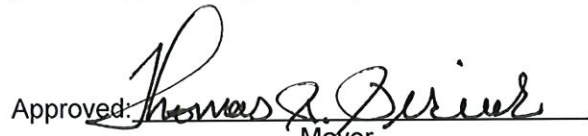
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**Section 4.** That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council; and that all deliberations of this Council, and any of its committees, that resulted in such formal actions were in meetings open to the public, in compliance with all legal requirements.

**Section 5.** That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare, and for the further reason that it is immediately necessary to enter into said Contract in order to continue operation of various building facilities within the City, without interruption, at advantageous prices for natural gas purchasing, and to conserve public funds. Therefore, provided this Ordinance receives the unanimous vote of all members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor.

  
\_\_\_\_\_  
President of Council

Date Passed: April 21, 2025

Approved:   
\_\_\_\_\_  
Mayor

Date Approved: April 21, 2025

Attest:   
\_\_\_\_\_  
Clerk of Council

	<u>Yea</u>	<u>Nay</u>
Carbone	<input checked="" type="checkbox"/>	_____
Clark	<input checked="" type="checkbox"/>	_____
Kaminski	<input checked="" type="checkbox"/>	_____
Kosek	<input checked="" type="checkbox"/>	_____
Roff	<input checked="" type="checkbox"/>	_____
Short	<input checked="" type="checkbox"/>	_____
Spring	<input checked="" type="checkbox"/>	_____

Ord. No. 2025-045 Amended: \_\_\_\_\_  
1<sup>st</sup> Rdg. 04-21-25 Ref: \_\_\_\_\_  
2<sup>nd</sup> Rdg. Suspended Ref: \_\_\_\_\_  
3<sup>rd</sup> Rdg. Suspended Ref: \_\_\_\_\_

Public Hrg. \_\_\_\_\_ Ref: \_\_\_\_\_  
Adopted: 04-21-25 Defeated: \_\_\_\_\_


 <b>UNITED GREEN ENERGY</b>	<b>TRANSACTION CONFIRMATION FOR IMMEDIATE DELIVERY</b>	Date: <u>4/15/2025</u> TCH#: <u>582103</u>
This Transaction Confirmation is subject to the Base Contract between Seller and Buyer dated <u>4/15/2025</u> . The terms of this Transaction Confirmation are binding unless disputed in writing within 2 Business Days of receipt unless otherwise specified in the Base Contract.		
<b>SELLER</b> United Energy Trading, LLC 225 Union Blvd., Suite 200 Lakewood, CO 80228  Attn: Jen Williams Phone: (303) 991-3905 Email: <a href="mailto:Natgasconfirm@uetllc.com">Natgasconfirm@uetllc.com</a>	<b>BUYER</b> City of Strongsville 16099 Foltz Industrial Parkway Strongsville, OH 44149  Attn: Thomas Perciak Phone: (440) 580-3262 Email: <del>XXXXXXXXXXXX</del> tom.perciak@strongsville.org	
Delivery Period: Begin <u>1/1/2026</u> End <u>12/31/2028</u>		
Contract Price: \$6.45 per Burnertip Mcf, plus charges pursuant to item 3 on the Base Contract. Broker Fees are included if applicable.		
<b>Performance Obligation and Contract Quantity:</b> Firm		
<b>Estimated Monthly Contract Volumes:</b> Burnertip Mcf		
January 1,828 February 1,803 March 1,343 April 343	May 225 June 138 July 125 August 179	September 361 October 607 November 2,214 December 2,811
Delivery Point(s): Columbia Gas of Ohio - City Gate		
Special Provisions: Firm service, full-requirements delivery based on Buyer's usage requirements.		
Billing: Utility Consolidated Billing		
LDC/Swing Tolerance: COH Choice, 100% Swing, fully volumetric		
Swing Pricing Provisions:		
Meter Numbers: See Exhibit A LDC Account Number: See Exhibit A Service Address: See Exhibit A		
Annual Estimated Volume: 11,977 Burnertip Mcf		
Tariff Changes and Other Transporter Issues: If there are any changes to the tariffs of any natural gas pipelines or local distribution companies that materially affect any gas transactions or associated costs and fees under this Contract, the parties shall amend, in good faith, this Transaction Confirmation, as applicable, to equitably preserve the balance of costs, risks, and benefits agreed to by the parties prior to such Tariff changes.		
Other Terms: To the extent any Transaction entered into subject to this Confirmation contains an embedded option, then the parties hereto intend that the Transaction fall within either (i) the Forward Contract Exclusion based on facts and circumstances and by satisfying the following seven (7) factors: (1) the embedded option does not undermine the overall nature of the Transaction as a whole; (2) the predominant feature of the Transaction is actual delivery; (3) the embedded option cannot be severed and marketed separately; (4) seller intends at the time it enters into the Transaction, to deliver the underlying nonfinancial commodity if the option is exercised; (5) buyer intends at the time it enters into the Transaction, to take delivery of the underlying nonfinancial commodity if it exercises the embedded option; (6) both parties are Commercial Parties (as defined below); and (7) the exercise or non-exercise of the embedded option is based primarily on physical factors or regulatory requirements that reasonably influence the demand for, or the supply of, the non financial commodity, or (ii) the Trade Option Exemption if it is (A) the offeree/buyer of such option, it is a producer, processor, commercial user of, or a merchant handling the commodity, or the products or byproducts thereof, that is/are the subject of the transaction (a "Commercial Party") and it is entering into the Transaction solely for purposes related to its business as such, and/or (B) the offeror/seller of such option, it is either a Commercial Party and it is entering into the transaction solely for purposes related to its business as such or it is an "eligible contract participant" as defined in Section 1a(18) of the Commodity Exchange Act.		
OFO/OMO: In the event of Operational Orders Issued by Transporter or LDC, Buyer shall be responsible for maintaining gas consumption levels at the referenced facility(ies) within the order tolerance levels. If the Buyer fails to maintain gas consumption levels at the referenced facility(ies) within the order tolerance levels during the Operational Orders, Seller shall charge Buyer for such volumes at the daily market price associated with the highest locational pricing on that day available to the Seller. Operational Order resolution shall be consistent with the applicable LDC and/or Transporter tariff.		
Material Deviation: The Contract Price is based on Buyer's Contract Quantity for the accounts shown. Seller and Buyer agree that actual usage may vary somewhat in the future. However, to the extent actual usage is more than twenty-five percent (25%) higher than the Contract Quantity or more than twenty-five percent (25%) below the Contract Quantity without prior notification from Buyer and such differences cannot be explained by ambient air temperatures proportionately higher or lower than the historical average, then Seller may charge Buyer current market prices at the Delivery Point for Buyer's increased usage or assess liquidated charges to Buyer calculated using current market prices at the Delivery Point for gas Buyer failed to consume.		
Seller: United Energy Trading, LLC  By: <u>Rene Garza</u> Print Name: Rene Garza Title: Director of Origination Date: 4/17/2025	Buyer: City of Strongsville  <u>Thomas P. Perciak</u> By: Thomas P. Perciak Print Name: Thomas P. Perciak Title: Mayor Date: 4/15/25	

EXHIBIT A



Exhibit A

Addendum to Transaction Confirmation  
between United Energy Trading, LLC and  
City of Strongsville  
4/15/2025

LDC Acct #	Service Address	City	ST	Zip	Meter#/Comments/Notes
124786590022	13213 Pearl Rd.	Strongsville	OH	44136	10761
124786590013	18688 Royalton Rd.	Strongsville	OH	44136	10761
124681570019	22000 Lunn Rd.	Strongsville	OH	44136	10761
124786590040	16099 Foltz Parkway	Strongsville	OH	44136	10761
124786570026	11297 Webster Rd.	Strongsville	OH	44136	10761
146133900014	15939 Drake Rd.	Strongsville	OH	44136	10761
125594250010	22000 Albion Rd.	Strongsville	OH	44136	10761
124786590031	17000 Prospect Rd	Strongsville	OH	44149	10761
124780610010	18925 Royalton Rd.	Strongsville	OH	44136	10761

Seller: United Energy Trading, LLC

By:

Print Name:

Title:

Date:

United Energy Trading, LLC

*Rene Garza*

Rene Garza

Director of Origination

4/17/2025

Buyer:

City of Strongsville

By:

Print Name:

Title:

Date:

City of Strongsville

*Thomas P. Perciak*

Thomas P. Perciak

Mayor

4/15/25



### Natural Gas Base Contract

Date: April 15, 2025

**Seller:**

United Energy Trading, LLC  
225 Union Blvd., Suite 200  
Lakewood, CO 80228

Contact: Rene Garza  
Telephone: 614-956-6167  
E-mail: rgarza@UETLLC.com  
Legal Notices: generalcounsel@uetllc.com

**Buyer:**

City of Strongsville  
16099 Foltz Industrial Parkway  
Strongsville, OH 44149

Contact: Thomas Perclak  
Telephone: (440) 580-3262  
E-mail: thomas.perclak@strongsville.org  
tom.perclak@strongsville.org

**1. Facility(ies) Covered by This Base Contract:**

All facilities identified in any current or future  
Transaction Confirmation

**Utility Account Service # (s):**

See Transaction Confirmation/Exhibit A

**2. Contract Quantity:** The quantity of natural gas purchased by Buyer and delivered by Seller under this Base Contract shall equal Buyer's monthly natural gas consumption quantity for the facility(ies) listed above (the "Facilities"), as measured by the applicable natural gas local distribution company during its normal monthly meter-reading process, plus an offset for imbalance between nominated and scheduled quantities. Buyer shall purchase its full natural gas requirements for the Facilities from Seller during the Delivery Period of this Base Agreement.

**3. Contract Price:** The Contract Price for all quantities of natural gas delivered under the Initial Period (as defined in Section 5) of this Base Contract shall be equal to the price detailed in the Transaction Confirmation plus any incremental charges or surcharges imposed by any applicable natural gas pipeline and/or local distribution company, subject to adjustment after the Initial Period in accordance with the General Terms and Conditions.

**4. Delivery Point(s):** Columbia Gas of Ohio - City Gate

**5. Delivery Period:**

Initial Period Begin: 1/1/2026 Initial Period End: 12/31/2028

The purchase and delivery obligations under this Base Contract shall commence on the Initial Period Begin date and remain in effect until the Initial Period End date (the "Initial Period"), after which Seller can automatically renew for successive one (1) Month periods (each a "Renewal Period") at a price tied to the Platts Inside FERC 1st of the month Index closest to the Delivery Point plus applicable adders, unless either party terminates this Base Contract, effective as of the end date of the then-applicable Initial Period or Renewal Period, by providing notice to the other party at least fifteen (15) days prior to the end of the Initial Period or Renewal Period. Notwithstanding anything to the contrary in the foregoing, Buyer may terminate this Base Contract prior to such end date if Buyer pays Seller a termination fee equal to the cost of unwinding previously purchased gas in accordance with the current Transaction Confirmation.

**6. Nomination and Imbalance:** Seller and Buyer shall coordinate their activities in nominating any volumes of natural gas for delivery, giving sufficient time to meet the deadlines of the affected natural gas pipelines and/or local distribution companies, and shall use commercially reasonable efforts to avoid any imposition of imbalance charges by such natural gas pipelines and/or local distribution companies.

**7. Operational Flow Orders:** In the event of Operational Orders issued by Transporter or LDC, Buyer shall be responsible for maintaining gas consumption levels at the referenced facility within the order tolerance levels. Operational Order resolution shall be consistent with the applicable LDC and/or Transporter tariff.

**8. Terms and Conditions:** The General Terms and Conditions for Retail Sales of Natural Gas attached to this Base Contract (the "General Terms and Conditions") are incorporated herein by reference and made a part hereof.

Seller: United Energy Trading, LLC

By: Rene Garza  
Print Name: Rene Garza  
Title: Director of Origination  
Date: 4/17/2025

Buyer: City of Strongsville

By: Thomas P. Perclak  
Print Name: Thomas P. Perclak  
Title: Mayor  
Date: 4/15/25

## GENERAL TERMS AND CONDITIONS FOR RETAIL SALES OF NATURAL GAS

These General Terms and Conditions for Retail Sales of Natural Gas (these "General Terms and Conditions") and the Natural Gas Base Contract to which they are attached, as such Natural Gas Base Contract may be amended from time to time by one or more Fixed Price Natural Gas Transaction Confirmations (the "Base Contract"), shall be construed together as a single integrated agreement (the "Contract") between United Energy Trading, LLC ("Seller" or "UET") and Customer ("Buyer").

1. **Performance:** Seller agrees to sell and deliver, and Buyer agrees to receive and purchase, the quantity of natural gas ("Gas") agreed to in the Base Contract (the "Contract Quantity") in accordance with the terms of this Contract.
2. **Transportation:** Seller shall arrange and pay for transportation needed to deliver Gas to the applicable delivery point agreed to by the parties in the Base Contract (the "Delivery Point") during the relevant period (including any applicable renewal period) during which deliveries are to be made as agreed by the parties in the Base Contract (the "Delivery Period").
3. **Tariff Changes and Other Transporter Issues:** If there are any changes to the tariffs of any natural gas pipelines or local distribution companies that materially affect any Gas transactions under this Contract, the parties shall amend these General Terms and Conditions and/or the terms and conditions of the Base Contract, as applicable, to equitably preserve the balance of costs, risks, and benefits agreed to by the parties prior to such tariff changes. Seller shall not be liable for any damages associated with any failure or delay in providing services or other performance under this Contract to the extent that such failure or delay is due to failure or delay in Buyer being enrolled in Seller's shipper pool with respect to the applicable natural gas pipelines or local distribution companies.
4. **Pricing:** The amount to be paid by Buyer to Seller with respect to any Gas transaction under the Base Contract shall be equal to the product of (i) the quantity of Gas delivered by Seller in connection with such transaction, multiplied by (ii) the contract price agreed to by the parties with respect to such transaction under the Base Contract (the "Contract Price"). Seller may adjust the Contract Price after the Initial Period to a price tied to the Platts Inside FERC 1st of the month index closest to the Delivery Point plus applicable adders.
5. **Taxes:** Seller shall pay or cause to be paid all taxes, fees, levies, penalties, licenses or charges imposed by any government authority ("Taxes") on or with respect to the Gas prior to the Delivery Point. Buyer shall pay or cause to be paid all Taxes imposed on or with respect to the Gas at and after the Delivery Point. If a party is required to remit or pay Taxes that are the other party's responsibility hereunder, the party responsible for such Taxes shall promptly reimburse the other party for such Taxes. If Buyer is entitled to an exemption from any such Taxes or charges, Buyer shall furnish Seller with any necessary documentation of such exemption.
6. **Billing and Payment:** Seller shall invoice Buyer for Gas delivered and received during the preceding month. If the actual quantity delivered is not known by the billing date, Seller shall invoice Buyer based upon Seller's estimated volume. The invoiced quantity will then be adjusted to the actual quantity on the following month's billing or as soon as practicable thereafter as actual delivery information is available. Additionally, Buyer shall be responsible for any and all charges and amounts resulting from rebills from the applicable utility/local distribution company. Rebills shall be passed through by Seller on the invoice month following receipt of the rebill from the applicable utility/local distribution company by Seller, or as soon as practicable thereafter. Buyer will remit in full to Seller the invoice amount, in immediately available funds, within twenty (20) calendar days after Seller's issuance of the invoice. If Buyer, in good faith, disputes the amount of any such invoice or any part thereof, Buyer will pay such amount as it concedes to be correct; provided, however, if Buyer disputes the amount due, it shall only be permitted to withhold any disputed amount if it provides supporting documentation acceptable in industry practice to support its determination regarding such disputed amount. Buyer and Seller shall promptly resolve any billing dispute. If Buyer fails to pay the invoice amount when due, Seller may collect from Buyer, in accordance with applicable law, a late charge equal to the lower of (i) (a) one and one-half percent (1 1/2%) of the outstanding balance per month or (b) Five Dollars (\$5.00) per month, whichever is greater; or (ii) the maximum applicable lawful interest rate, and Seller may pursue any other remedy available to Seller under the terms of the Contract. All invoices shall be conclusively presumed final and accurate unless either party questions the accuracy of such invoices in writing, with adequate explanation and/or documentation, within two (2) years after the month in which the relevant invoice is received by Buyer; provided that if a determination of any Gas volumes transacted by Seller and Buyer is affected by any changes made to a third party's determination of any respective Gas volumes received or delivered by Seller, including any changes by applicable natural gas pipelines or local distribution companies due to meter corrections, rebills, or other reasons, then Seller shall pass through such changes, including any resulting additional Gas costs or imbalance charges, to Buyer within thirty (30) days of Seller's settlement of such changes with such third party. For the avoidance of doubt, such third party adjustments shall not be subject to the above two (2) year limitation noted in this Section 6.
7. **Remedy:** If Seller fails to perform any obligation to deliver Gas to Buyer hereunder and such nonperformance is not otherwise excused under this Contract, Seller shall pay Buyer an amount equal to (i) the positive difference, if any, between the purchase price paid by Buyer in order to acquire replacement Gas and the Contract Price for such Gas, adjusted for commercially reasonable differences in transportation costs to or from the applicable Delivery Point, multiplied by (ii) the difference between the Contract Quantity for the day(s) of such breach and the quantity actually delivered by Seller for such day(s). If Buyer has used commercially reasonable efforts to replace the Gas and no such replacement is available, then Seller shall pay Buyer an amount equal to (i) the positive difference, if any, between the fall-back index price set forth on the Base Contract or otherwise agreed to by the parties or, if not so agreed to, for the delivery point on the applicable pipeline that is closest to the applicable Delivery Point and for which an index price is published by Platts (the "Fall-Back Index Price") for such Gas and the Contract Price, adjusted for commercially reasonable differences in transportation costs to or from the applicable Delivery Point, multiplied by (ii) the difference between the Contract Quantity for the day(s) of such breach and the quantity actually delivered by Seller for such day(s). If Buyer fails to perform any obligation to receive Gas from Seller hereunder and such nonperformance is not otherwise excused under this Contract, Buyer shall pay Seller an amount equal to (i) the positive difference, if any, between the Contract Price for such Gas and the sales price received by Seller in selling such Gas to a third party, adjusted for commercially reasonable differences in transportation costs to or from the applicable Delivery Point, multiplied by (ii) the difference between the Contract Quantity for the day(s) of such breach and the quantity actually received by Buyer for such day(s). If Seller has used commercially reasonable efforts to sell the Gas and no such sales are reasonably available, then Buyer shall pay Seller an amount equal to (i) the positive difference, if any, between the Contract Price and the Fall-Back Index Price for such Gas, adjusted for commercially reasonable differences in transportation costs to or from the applicable Delivery Point, multiplied by (ii) the difference between the Contract Quantity for the day(s) of such breach and the quantity actually received by Buyer for such day(s). The remedy provided for in this Section 7 shall be the sole and exclusive remedy available to the parties with respect to the volume of Gas delivered or received by the parties under the Contract, except as otherwise provided in Section 10 upon the occurrence of an Event of Default.
8. **Force Majeure:** Except with regard to a party's obligation to make payment(s) due hereunder, neither party shall be liable to the other for failure to perform any obligation hereunder to the extent such failure was caused by Force Majeure. "Force Majeure" means any cause not reasonably within the control of the party claiming suspension of its obligations due to Force Majeure, including but not limited to the following: (i) physical events such as acts of God, landslides, lightning, earthquakes, fires, storms or storm warnings, such as hurricanes, which result in evacuation of the affected area, floods, washouts, explosions, breakage or accident or necessity of repairs to machinery or equipment or lines of pipe; (ii) weather related events affecting an entire geographic region, such as low temperatures which cause freezing or failure of wells or lines of pipe; (iii) acts of others such as strikes, lockouts or other industrial disturbances, riots, sabotage, terrorism, insurrections or wars; (iv) governmental actions such as necessity for compliance with any court order, law, statute, ordinance, regulation, or policy having the effect of law promulgated by a governmental authority having jurisdiction; (v) interruptions of any upstream transportation scheduled as Firm; and (vi) any cause recognized as "Force Majeure," "Uncontrollable Force," or similar cause under an applicable natural gas pipeline or local distribution company tariff. "Firm" shall mean transportation of Gas that is allowed to be interrupted by the applicable natural gas pipeline or local distribution company tariff without liability only to the extent that such interruption is due to

9. **Credit Terms:** If Buyer does not meet Seller's credit standards at any time, Seller shall be entitled to request that Buyer provide or establish credit support for Buyer's obligations under the Contract, including, but not limited to, an irrevocable standby letter of credit, a prepayment, a guaranty, or other good and sufficient security of a continuing nature, all in the form, amount, and for a term as determined by and acceptable to Seller.

10. **Events of Default:** In addition to any and all other remedies available to Seller under this Contract and any other damages allowed by law, Seller shall have the right, at its sole election and upon written notice, to immediately (A) withhold and/or suspend deliveries, or (B) terminate and/or liquidate this Contract, upon the occurrence of any of the following events (each an "Event of Default"): (i) Buyer fails to pay any amount due to Seller under the Contract on or before the second business day following Seller's delivery of written notice to Buyer that such payment is past due; (ii) Buyer makes an assignment or any general arrangement for the benefit of creditors, files a petition or otherwise commences, authorizes, or acquiesces in the commencement of a proceeding or case under any bankruptcy or similar law for the protection of creditors or has such petition filed or proceeding commenced against it, or otherwise becomes bankrupt or insolvent (however evidenced), becomes unable to pay its debts as they fall due, or has a receiver, provisional liquidator, conservator, custodian, trustee or other similar official appointed with respect to it or substantially all of its assets; (iii) Buyer fails to provide the required credit support within two (2) business days as requested by Seller in accordance with Section 9; or (iv) Buyer otherwise fails to comply with the terms of this Contract. If Seller elects to liquidate this Contract, Seller shall make a good faith determination of all amounts owing from Buyer under this Contract for the remainder of the Delivery Period, whether or not then due, in a manner that accounts for the Contract Quantity not received by Buyer, the Contract Price for such Contract Quantity not received by Buyer and the market price at which Seller could sell to a third party the Contract Quantity that is not received by Buyer, due to the termination of the Contract. Promptly following such determination, Seller shall provide an invoice for such amounts to Buyer and Buyer shall pay to Seller the amounts owed pursuant to this Section 10 within ten (10) days of the issuance of Seller's invoice.

11. **Risk of Loss; Warranty; Indemnity:** Title to any Gas delivered hereunder shall pass from Seller to Buyer at the Delivery Point. Seller shall have responsibility for and assume any liability with respect to the Gas prior to its delivery to Buyer at the Delivery Point. Buyer shall have responsibility for and any liability with respect to said Gas at and after its delivery to Buyer at the Delivery Point. Seller agrees to indemnify Buyer and save it harmless from all losses, liabilities or claims including reasonable attorneys' fees and costs of court ("Claims"), from any and all persons, arising from or out of claims of title, personal injury including any wrongful death action, or property damage from said Gas or other charges thereon which attach before title passes to Buyer. Buyer agrees to indemnify Seller and save it harmless from all Claims, from any and all persons, arising from or out of claims regarding payment, personal injury including any wrongful death action, or property damage from said Gas or other charges thereon which attach after title passes to Buyer. Seller warrants that it will have the right to convey and will transfer good and marketable title to all Gas delivered to Buyer, free and clear of all liens, encumbrances, and claims. EXCEPT AS PROVIDED IN THIS SECTION 11, ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR OF FITNESS FOR ANY PARTICULAR PURPOSE OR ARISING FROM COURSE OF DEALING OR USAGE OF TRADE, ARE HEREBY EXPRESSLY DISCLAIMED.

12. **Damages:** DAMAGES UNDER THIS CONTRACT SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES. IN NO EVENT SHALL EITHER BUYER OR SELLER BE LIABLE TO THE OTHER PARTY FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES.

13. **Assignment; Amendment:** Buyer must inform Seller of any account changes (i.e. sale of a property to a new owner, closing of property, etc.) as soon as reasonably possible and may not assign this Contract in whole or in part without Seller's prior written consent. Unless and until this Contract has been novated (in whole or in part) to a new owner, Buyer shall remain responsible for any and all fees and charges under this contract (including monthly invoices for all improperly transferred accounts), and including, for the avoidance of doubt, any early termination fees resulting under this Contract. This Contract will be binding on the parties' respective successors and assigns. No amendment of this Contract or its terms will be valid unless agreed to in writing by both parties.

14. **Quality and Measurement:** All Gas delivered by Seller shall meet the pressure, quality, and heat content requirements of the Receiving Transporter (as defined below). The unit of quantity measurement for purposes of this Contract shall be one MMBtu dry. Measurement of Gas quantities hereunder shall be in accordance with the established procedures of the Receiving Transporter. "Receiving Transporter" shall mean any gas gathering or pipeline company, or local distribution company, acting in the capacity of a transporter and receiving Gas at a Delivery Point, or any gas gathering or pipeline company, or local distribution company delivering Gas at a Delivery Point, as applicable.

15. **Priority:** In the event of a conflict among the terms of (i) a Fixed Price Natural Gas Transaction Confirmation executed by the parties, (ii) the Base Contract, and (iii) these General Terms and Conditions, the terms of the documents or agreements shall govern in the priority listed in this sentence.

16. **Choice of Law; Resolution of Disputes; Arbitration; WAIVER OF JURY TRIAL:** The interpretation and performance of this Contract shall be governed by the laws of the State of Ohio, excluding, however, any conflict of laws rule that would apply the law of another jurisdiction. Any dispute arising out of this Contract not resolved voluntarily by the parties shall be submitted for binding arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association. TO THE EXTENT A CLAIM IS HELD TO BE NOT ARBITRABLE, EACH PARTY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT TO TRIAL BY JURY WITH RESPECT TO SUCH CLAIM.

17. **Severability:** If any provision in this Contract is determined to be invalid, void or unenforceable by any arbitrator or court having jurisdiction, that provision shall be severed from the remainder of this Contract and replaced automatically by a provision containing terms as nearly like the invalid, void or unenforceable provision as possible, and the Contract, as so modified, shall remain in full force and effect; provided that, if the application of any provision of this Contract is determined to be invalid, void or unenforceable only with respect to a certain person or circumstance, then that provision shall remain valid, lawful, and enforceable as applied to any other persons or circumstances.

18. **Forward Contract:** The parties agree that this Contract and any transactions performed under this Contract constitute a "forward contract" within the meaning of the United States Bankruptcy Code and that Seller is a "forward contract merchant" within the meaning of the United States Bankruptcy Code.

19. **Third Party Beneficiary:** There are third party beneficiaries to this contract when applicable through a broker agreement.

20. **Waiver:** No waiver of any provision, breach or remedy under this Contract shall be binding unless in writing and signed by the party bound to such waiver. No waiver of any provision, breach or remedy under this Contract shall be deemed to be or otherwise constitute a waiver of any other provision, breach or remedy under this Contract (whether or not similar), nor shall such waiver constitute a continuing waiver unless otherwise expressly provided.

21. **Construction:** Should any provision of this Contract require interpretation by an arbitrator or court, it is agreed that such arbitrator or court interpreting or construing this Contract shall not construe any provision against one party more strictly by reason of any rule of interpretation that relates to the source of preparation of a document, it being agreed that the agents of both parties have participated in the preparation of this Contract and that legal counsel was consulted by each party prior to its execution.

22. **Entire Agreement:** This Contract sets forth all understanding between the parties respecting each transaction subject hereto, and any prior contracts, understandings, and representations, whether oral or written, relating to such transactions are merged into and superseded by this Contract.

23. **Relationship of Parties:** The relationship of the Parties under this agreement shall be that of independent contractors. Nothing in this Agreement shall constitute either a partnership or joint venture between the Parties, nor shall it constitute any Party to be the agent, employee, or representative of the other Party for any purpose. This provision will continue to be effective after the termination of this Agreement.





		<b>TRANSACTION CONFIRMATION FOR IMMEDIATE DELIVERY</b>	Date: <u>4/15/2025</u> TC#: <u>582106</u>
This Transaction Confirmation is subject to the Base Contract between Seller and Buyer dated <u>4/15/2025</u> . The terms of this Transaction Confirmation are binding unless disputed in writing within 2 Business Days of receipt unless otherwise specified in the Base Contract.			
<b>SELLER</b> United Energy Trading, LLC 225 Union Blvd., Suite 200 Lakewood, CO 80228  Attn: Jen Williams Phone: (303) 991-3905 Email: <a href="mailto:Natgasconfirms@uetllc.com">Natgasconfirms@uetllc.com</a>		<b>BUYER</b> City of Strongsville 16099 Foltz Industrial Parkway Strongsville, OH 44149  Attn: Thomas Perclak Phone: (440) 580-3262 Email: <del>XXXXXXXXXXXXXXXXXX</del> tom.perclak@strongsville.org	
Delivery Period: Begin <u>1/1/2026</u> End <u>12/31/2028</u>			
Contract Price: \$4.93 per Citygate Dth, plus charges pursuant to Item 3 on the Base Contract. Broker Fees are included if applicable.			
<b>Performance Obligation and Contract Quantity:</b> Firm			
<b>Estimated Monthly Contract Volumes:</b> Citygate Dth			
January	1,323	May	315
February	978	June	235
March	806	July	189
April	793	August	219
		September	256
		October	315
		November	510
		December	1,245
Delivery Point(s): Columbia Gas of Ohio - City Gate			
Special Provisions: Firm service, full-requirements delivery based on Buyer's usage requirements.			
Billing: Utility Consolidated Billing			
LDC/Swing Tolerance: COH GTS, 100% Swing			
Swing Pricing Provisions:			
Meter Numbers: See Exhibit A			
LDC Account Number: 148809330019			
Service Address: 18100 Royalton Rd Rear Strongsville OH 44136			
Annual Estimated Volume: 7,184 Citygate Dth			
<b>Tariff Changes and Other Transporter Issues:</b> If there are any changes to the tariffs of any natural gas pipelines or local distribution companies that materially affect any gas transactions or associated costs and fees under this Contract, the parties shall amend, in good faith, this Transaction Confirmation, as applicable, to equitably preserve the balance of costs, risks, and benefits agreed to by the parties prior to such Tariff changes.			
<b>Other Terms:</b> To the extent any Transaction entered into subject to this Confirmation contains an embedded option, then the parties hereto intend that the Transaction fall within either (i) the Forward Contract Exclusion based on facts and circumstances and by satisfying the following seven (7) factors: (1) the embedded option does not undermine the overall nature of the Transaction as a whole; (2) the predominant feature of the Transaction is actual delivery; (3) the embedded option cannot be severed and marketed separately; (4) seller intends at the time it enters into the Transaction, to deliver the underlying nonfinancial commodity if the option is exercised; (5) buyer intends at the time it enters into the Transaction, to take delivery of the underlying nonfinancial commodity if it exercises the embedded option; (6) both parties are Commercial Parties (as defined below); and (7) the exercise or non-exercise of the embedded option is based primarily on physical factors or regulatory requirements that reasonably influence the demand for, or the supply of, the non financial commodity, or (ii) the Trade Option Exemption If it is (A) the offeror/buyer of such option, it is a producer, processor, commercial user of, or a merchant handling the commodity, or the products or byproducts thereof, that is/are the subject of the transaction (a "Commercial Party") and it is entering into the Transaction solely for purposes related to its business as such, and/or (B) the offeror/seller of such option, it is either a Commercial Party and it is entering into the transaction solely for purposes related to its business as such or it is an "eligible contract participant" as defined in Section 1a(18) of the Commodity Exchange Act.			
<b>OFO/OMO:</b> In the event of Operational Orders Issued by Transporter or LDC, Buyer shall be responsible for maintaining gas consumption levels at the referenced facility(ies) within the order tolerance levels. If the Buyer fails to maintain gas consumption levels at the referenced facility(ies) within the order tolerance levels during the Operational Orders, Seller shall charge Buyer for such volumes at the daily market price associated with the highest locational pricing on that day available to the Seller. Operational Order resolution shall be consistent with the applicable LDC and/or Transporter tariff.			
<b>Material Deviation:</b> The Contract Price is based on Buyer's Contract Quantity for the accounts shown. Seller and Buyer agree that actual usage may vary somewhat in the future. However, to the extent actual usage is more than twenty-five percent (25%) higher than the Contract Quantity or more than twenty-five percent (25%) below the Contract Quantity without prior notification from Buyer and such differences cannot be explained by ambient air temperatures proportionately higher or lower than the historical average, then Seller may charge Buyer current market prices at the Delivery Point for Buyer's increased usage or assess liquidated charges to Buyer calculated using current market prices at the Delivery Point for gas Buyer failed to consume.			
Seller: United Energy Trading, LLC  By: <u>Rene Garza</u> Print Name: Rene Garza Title: Director of Origination Date: 4/17/2025		Buyer: City of Strongsville  <u>Thomas P. Perclak</u> By: Thomas P. Perclak Print Name: Thomas P. Perclak Title: Mayor Date: 4/15/25	

EXHIBIT B



Exhibit A

Addendum to Transaction Confirmation  
between United Energy Trading, LLC and  
City of Strongsville  
4/15/2025

LDC Acct #	Service Address	City	ST	Zip	Meter#/Comments/Notes
148809330019	18100 Royalton Rd Rear	Strongsville	OH	44136	11317 (COH-GTS)

Seller: United Energy Trading, LLC

By:

Print Name:

Title:

Date:

*Rene Garza*

Rene Garza

Director of Origination

4/17/2025

Buyer:

City of Strongsville

By:

Print Name:

Title:

Date:

*Thomas P. Perciak*

Thomas P. Perciak

Mayor

4/15/25



## Natural Gas Base Contract

Date: April 15, 2025

### Seller:

United Energy Trading, LLC  
225 Union Blvd., Suite 200  
Lakewood, CO 80228

Contact: Rene Garza  
Telephone: 614-956-6167  
E-mail: [rgarza@UETLLC.com](mailto:rgarza@UETLLC.com)  
Legal Notices: [generalcounsel@uetllc.com](mailto:generalcounsel@uetllc.com)

### Buyer:

City of Strongsville  
16099 Foltz Industrial Parkway  
Strongsville, OH 44149

Contact: Thomas Perclak  
Telephone: (440) 580-3262  
E-mail: ~~XXXXXXXXXX@strongsville.org~~  
[tom.perciak@strongsville.org](mailto:tom.perciak@strongsville.org)

### 1. Facility(ies) Covered by This Base Contract:

All facilities identified in any current or future  
Transaction Confirmation

### Utility Account Service # (s):

See Transaction Confirmation/Exhibit A

2. **Contract Quantity:** The quantity of natural gas purchased by Buyer and delivered by Seller under this Base Contract shall equal Buyer's monthly natural gas consumption quantity for the facility(ies) listed above (the "Facilities"), as measured by the applicable natural gas local distribution company during its normal monthly meter-reading process, plus an offset for imbalance between nominated and scheduled quantities. Buyer shall purchase its full natural gas requirements for the Facilities from Seller during the Delivery Period of this Base Agreement.

3. **Contract Price:** The Contract Price for all quantities of natural gas delivered under the Initial Period (as defined in Section 5) of this Base Contract shall be equal to the price detailed in the Transaction Confirmation plus any Incremental charges or surcharges imposed by any applicable natural gas pipeline and/or local distribution company, subject to adjustment after the Initial Period in accordance with the General Terms and Conditions.

4. **Delivery Point(s):** Columbia Gas of Ohio - City Gate

### 5. Delivery Period:

Initial Period Begin: 1/1/2026 Initial Period End: 12/31/2028

The purchase and delivery obligations under this Base Contract shall commence on the Initial Period Begin date and remain in effect until the Initial Period End date (the "Initial Period"), after which Seller can automatically renew for successive one (1) Month periods (each a "Renewal Period") at a price tied to the Platts Inside FERC 1st of the month index closest to the Delivery Point plus applicable adders, unless either party terminates this Base Contract, effective as of the end date of the then-applicable Initial Period or Renewal Period, by providing notice to the other party at least fifteen (15) days prior to the end of the Initial Period or Renewal Period. Notwithstanding anything to the contrary in the foregoing, Buyer may terminate this Base Contract prior to such end date if Buyer pays Seller a termination fee equal to the cost of unwinding previously purchased gas in accordance with the current Transaction Confirmation.

6. **Nomination and Imbalance:** Seller and Buyer shall coordinate their activities in nominating any volumes of natural gas for delivery, giving sufficient time to meet the deadlines of the affected natural gas pipelines and/or local distribution companies, and shall use commercially reasonable efforts to avoid any imposition of imbalance charges by such natural gas pipelines and/or local distribution companies.

7. **Operational Flow Orders:** In the event of Operational Orders issued by Transporter or LDC, Buyer shall be responsible for maintaining gas consumption levels at the referenced facility within the order tolerance levels. Operational Order resolution shall be consistent with the applicable LDC and/or Transporter tariff.

8. **Terms and Conditions:** The General Terms and Conditions for Retail Sales of Natural Gas attached to this Base Contract (the "General Terms and Conditions") are incorporated herein by reference and made a part hereof.

Seller: United Energy Trading, LLC

By: Rene Garza  
Print Name: Rene Garza  
Title: Director of Origination  
Date: 4/17/2025

Buyer: City of Strongsville

By: Thomas P. Perclak  
Print Name: Thomas P. Perclak  
Title: Mayor  
Date: 4/15/25

## GENERAL TERMS AND CONDITIONS FOR RETAIL SALES OF NATURAL GAS

These General Terms and Conditions for Retail Sales of Natural Gas (these "General Terms and Conditions") and the Natural Gas Base Contract to which they are attached, as such Natural Gas Base Contract may be amended from time to time by one or more Fixed Price Natural Gas Transaction Confirmations (the "Base Contract"), shall be construed together as a single integrated agreement (the "Contract") between United Energy Trading, LLC ("Seller" or "UET") and Customer ("Buyer").

1. **Performance:** Seller agrees to sell and deliver, and Buyer agrees to receive and purchase, the quantity of natural gas ("Gas") agreed to in the Base Contract (the "Contract Quantity") in accordance with the terms of this Contract.
2. **Transportation:** Seller shall arrange and pay for transportation needed to deliver Gas to the applicable delivery point agreed to by the parties in the Base Contract (the "Delivery Point") during the relevant period (including any applicable renewal period) during which deliveries are to be made as agreed by the parties in the Base Contract (the "Delivery Period").
3. **Tariff Changes and Other Transporter Issues:** If there are any changes to the tariffs of any natural gas pipelines or local distribution companies that materially affect any Gas transactions under this Contract, the parties shall amend these General Terms and Conditions and/or the terms and conditions of the Base Contract, as applicable, to equitably preserve the balance of costs, risks, and benefits agreed to by the parties prior to such tariff changes. Seller shall not be liable for any damages associated with any failure or delay in providing services or other performance under this Contract to the extent that such failure or delay is due to failure or delay in Buyer being enrolled in Seller's shipper pool with respect to the applicable natural gas pipelines or local distribution companies.
4. **Pricing:** The amount to be paid by Buyer to Seller with respect to any Gas transaction under the Base Contract shall be equal to the product of (i) the quantity of Gas delivered by Seller in connection with such transaction, multiplied by (ii) the contract price agreed to by the parties with respect to such transaction under the Base Contract (the "Contract Price"). Seller may adjust the Contract Price after the Initial Period to a price tied to the Platts Inside FERC 1st of the month index closest to the Delivery Point plus applicable adders.
5. **Taxes:** Seller shall pay or cause to be paid all taxes, fees, levies, penalties, licenses or charges imposed by any government authority ("Taxes") on or with respect to the Gas prior to the Delivery Point. Buyer shall pay or cause to be paid all Taxes imposed on or with respect to the Gas at and after the Delivery Point. If a party is required to remit or pay Taxes that are the other party's responsibility hereunder, the party responsible for such Taxes shall promptly reimburse the other party for such Taxes. If Buyer is entitled to an exemption from any such Taxes or charges, Buyer shall furnish Seller with any necessary documentation of such exemption.
6. **Billing and Payment:** Seller shall invoice Buyer for Gas delivered and received during the preceding month. If the actual quantity delivered is not known by the billing date, Seller shall invoice Buyer based upon Seller's estimated volume. The invoiced quantity will then be adjusted to the actual quantity on the following month's billing or as soon as practicable thereafter as actual delivery information is available. Additionally, Buyer shall be responsible for any and all charges and amounts resulting from rebills from the applicable utility/local distribution company. Rebills shall be passed through by Seller on the invoice month following receipt of the rebill from the applicable utility/local distribution company by Seller, or as soon as practicable thereafter. Buyer will remit in full to Seller the invoice amount, in immediately available funds, within twenty (20) calendar days after Seller's issuance of the invoice. If Buyer, in good faith, disputes the amount of any such invoice or any part thereof, Buyer will pay such amount as it concedes to be correct; provided, however, if Buyer disputes the amount due, it shall only be permitted to withhold any disputed amount if it provides supporting documentation acceptable in industry practice to support its determination regarding such disputed amount. Buyer and Seller shall promptly resolve any billing dispute. If Buyer fails to pay the invoice amount when due, Seller may collect from Buyer, in accordance with applicable law, a late charge equal to the lower of (i) one and one-half percent (1 1/2%) of the outstanding balance per month or (b) Five Dollars (\$5.00) per month, whichever is greater; or (ii) the maximum applicable lawful interest rate, and Seller may pursue any other remedy available to Seller under the terms of the Contract. All invoices shall be conclusively presumed final and accurate unless either party questions the accuracy of such invoices in writing, with adequate explanation and/or documentation, within two (2) years after the month in which the relevant invoice is received by Buyer; provided that if a determination of any Gas volumes transacted by Seller and Buyer is affected by any changes made to a third party's determination of any respective Gas volumes received or delivered by Seller, including any changes by applicable natural gas pipelines or local distribution companies due to meter corrections, rebills, or other reasons, then Seller shall pass through such changes, including any resulting additional Gas costs or imbalance charges, to Buyer within thirty (30) days of Seller's settlement of such changes with such third party. For the avoidance of doubt, such third party adjustments shall not be subject to the above two (2) year limitation noted in this Section 6.
7. **Remedy:** If Seller fails to perform any obligation to deliver Gas to Buyer hereunder and such nonperformance is not otherwise excused under this Contract, Seller shall pay Buyer an amount equal to (i) the positive difference, if any, between the purchase price paid by Buyer in order to acquire replacement Gas and the Contract Price for such Gas, adjusted for commercially reasonable differences in transportation costs to or from the applicable Delivery Point, multiplied by (ii) the difference between the Contract Quantity for the day(s) of such breach and the quantity actually delivered by Seller for such day(s). If Buyer has used commercially reasonable efforts to replace the Gas and no such replacement is available, then Seller shall pay Buyer an amount equal to (i) the positive difference, if any, between the fall-back index price set forth on the Base Contract or otherwise agreed to by the parties or, if not so agreed to, for the delivery point on the applicable pipeline that is closest to the applicable Delivery Point and for which an index price is published by Platts (the "Fall-Back Index Price") for such Gas and the Contract Price, adjusted for commercially reasonable differences in transportation costs to or from the applicable Delivery Point, multiplied by (ii) the difference between the Contract Quantity for the day(s) of such breach and the quantity actually delivered by Seller for such day(s). If Buyer fails to perform any obligation to receive Gas from Seller hereunder and such nonperformance is not otherwise excused under this Contract, Buyer shall pay Seller an amount equal to (i) the positive difference, if any, between the Contract Price for such Gas and the sales price received by Seller in selling such Gas to a third party, adjusted for commercially reasonable differences in transportation costs to or from the applicable Delivery Point, multiplied by (ii) the difference between the Contract Quantity for the day(s) of such breach and the quantity actually received by Buyer for such day(s). If Seller has used commercially reasonable efforts to sell the Gas and no such sales are reasonably available, then Buyer shall pay Seller an amount equal to (i) the positive difference, if any, between the Contract Price and the Fall-Back Index Price for such Gas, adjusted for commercially reasonable differences in transportation costs to or from the applicable Delivery Point, multiplied by (ii) the difference between the Contract Quantity for the day(s) of such breach and the quantity actually received by Buyer for such day(s). The remedy provided for in this Section 7 shall be the sole and exclusive remedy available to the parties with respect to the volume of Gas delivered or received by the parties under the Contract, except as otherwise provided in Section 10 upon the occurrence of an Event of Default.
8. **Force Majeure:** Except with regard to a party's obligation to make payment(s) due hereunder, neither party shall be liable to the other for failure to perform any obligation hereunder to the extent such failure was caused by Force Majeure. "Force Majeure" means any cause not reasonably within the control of the party claiming suspension of its obligations due to Force Majeure, including but not limited to the following: (i) physical events such as acts of God, landslides, lightning, earthquakes, fires, storms or storm warnings, such as hurricanes, which result in evacuation of the affected area, floods, washouts, explosions, breakage or accident or necessity of repairs to machinery or equipment or lines of pipe; (ii) weather related events affecting an entire geographic region, such as low temperatures which cause freezing or failure of wells or lines of pipe; (iii) acts of others such as strikes, lockouts or other industrial disturbances, riots, sabotage, terrorism, insurrections or wars; (iv) governmental actions such as necessity for compliance with any court order, law, statute, ordinance, regulation, or policy having the effect of law promulgated by a governmental authority having jurisdiction; (v) interruptions of any upstream transportation scheduled as Firm; and (vi) any cause recognized as "Force Majeure," "Uncontrollable Force," or similar cause under an applicable natural gas pipeline or local distribution company tariff. "Firm" shall mean transportation of Gas that is allowed to be interrupted by the applicable natural gas pipeline or local distribution company tariff without liability only to the extent that such interruption is due to



**9. Credit Terms:** If Buyer does not meet Seller's credit standards at any time, Seller shall be entitled to request that Buyer provide or establish credit support for Buyer's obligations under the Contract, including, but not limited to, an irrevocable standby letter of credit, a prepayment, a guaranty, or other good and sufficient security of a continuing nature, all in the form, amount, and for a term as determined by and acceptable to Seller.

**10. Events of Default:** In addition to any and all other remedies available to Seller under this Contract and any other damages allowed by law, Seller shall have the right, at its sole election and upon written notice, to immediately (A) withhold and/or suspend deliveries, or (B) terminate and/or liquidate this Contract, upon the occurrence of any of the following events (each an "Event of Default"): (i) Buyer fails to pay any amount due to Seller under the Contract on or before the second business day following Seller's delivery of written notice to Buyer that such payment is past due; (ii) Buyer makes an assignment or any general arrangement for the benefit of creditors, files a petition or otherwise commences, authorizes, or acquiesces in the commencement of a proceeding or case under any bankruptcy or similar law for the protection of creditors or has such petition filed or proceeding commenced against it, or otherwise becomes bankrupt or insolvent (however evidenced), becomes unable to pay its debts as they fall due, or has a receiver, provisional liquidator, conservator, custodian, trustee or other similar official appointed with respect to it or substantially all of its assets; (iii) Buyer fails to provide the required credit support within two (2) business days as requested by Seller in accordance with Section 9; or (iv) Buyer otherwise fails to comply with the terms of this Contract. If Seller elects to liquidate this Contract, Seller shall make a good faith determination of all amounts owing from Buyer under this Contract for the remainder of the Delivery Period, whether or not then due, in a manner that accounts for the Contract Quantity not received by Buyer, the Contract Price for such Contract Quantity not received by Buyer and the market price at which Seller could sell to a third party the Contract Quantity that is not received by Buyer, due to the termination of the Contract. Promptly following such determination, Seller shall provide an invoice for such amounts to Buyer and Buyer shall pay to Seller the amounts owed pursuant to this Section 10 within ten (10) days of the issuance of Seller's invoice.

**11. Risk of Loss; Warranty; Indemnity:** Title to any Gas delivered hereunder shall pass from Seller to Buyer at the Delivery Point. Seller shall have responsibility for and assume any liability with respect to the Gas prior to its delivery to Buyer at the Delivery Point. Buyer shall have responsibility for and any liability with respect to said Gas at and after its delivery to Buyer at the Delivery Point. Seller agrees to indemnify Buyer and save it harmless from all losses, liabilities or claims including reasonable attorneys' fees and costs of court ("Claims"), from any and all persons, arising from or out of claims of title, personal injury including any wrongful death action, or property damage from said Gas or other charges thereon which attach before title passes to Buyer. Buyer agrees to indemnify Seller and save it harmless from all Claims, from any and all persons, arising from or out of claims regarding payment, personal injury including any wrongful death action, or property damage from said Gas or other charges thereon which attach after title passes to Buyer. Seller warrants that it will have the right to convey and will transfer good and marketable title to all Gas delivered to Buyer, free and clear of all liens, encumbrances, and claims. EXCEPT AS PROVIDED IN THIS SECTION 11, ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR OF FITNESS FOR ANY PARTICULAR PURPOSE OR ARISING FROM COURSE OF DEALING OR USAGE OF TRADE, ARE HEREBY EXPRESSLY DISCLAIMED.

**12. Damages:** DAMAGES UNDER THIS CONTRACT SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES. IN NO EVENT SHALL EITHER BUYER OR SELLER BE LIABLE TO THE OTHER PARTY FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES.

**13. Assignment; Amendment:** Buyer must inform Seller of any account changes (i.e. sale of a property to a new owner, closing of property, etc.) as soon as reasonably possible and may not assign this Contract in whole or in part without Seller's prior written consent. Unless and until this Contract has been novated (in whole or in part) to a new owner, Buyer shall remain responsible for any and all fees and charges under this contract (including monthly invoices for all improperly transferred accounts), and including, for the avoidance of doubt, any early termination fees resulting under this Contract. This Contract will be binding on the parties' respective successors and assigns. No amendment of this Contract or its terms will be valid unless agreed to in writing by both parties.

**14. Quality and Measurement:** All Gas delivered by Seller shall meet the pressure, quality, and heat content requirements of the Receiving Transporter (as defined below). The unit of quantity measurement for purposes of this Contract shall be one MMBtu dry. Measurement of Gas quantities hereunder shall be in accordance with the established procedures of the Receiving Transporter. "Receiving Transporter" shall mean any gas gathering or pipeline company, or local distribution company, acting in the capacity of a transporter and receiving Gas at a Delivery Point, or any gas gathering or pipeline company, or local distribution company delivering Gas at a Delivery Point, as applicable.

**15. Priority:** In the event of a conflict among the terms of (i) a Fixed Price Natural Gas Transaction Confirmation executed by the parties, (ii) the Base Contract, and (iii) these General Terms and Conditions, the terms of the documents or agreements shall govern in the priority listed in this sentence.

**16. Choice of Law; Resolution of Disputes; Arbitration; WAIVER OF JURY TRIAL:** The interpretation and performance of this Contract shall be governed by the laws of the State of Ohio, excluding, however, any conflict of laws rule that would apply the law of another jurisdiction. Any dispute arising out of this Contract not resolved voluntarily by the parties shall be submitted for binding arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association. TO THE EXTENT A CLAIM IS HELD TO BE NOT ARBITRABLE, EACH PARTY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT TO TRIAL BY JURY WITH RESPECT TO SUCH CLAIM.

**17. Severability:** If any provision in this Contract is determined to be invalid, void or unenforceable by any arbitrator or court having jurisdiction, that provision shall be severed from the remainder of this Contract and replaced automatically by a provision containing terms as nearly like the invalid, void or unenforceable provision as possible, and the Contract, as so modified, shall remain in full force and effect; provided that, if the application of any provision of this Contract is determined to be invalid, void or unenforceable only with respect to a certain person or circumstance, then that provision shall remain valid, lawful, and enforceable as applied to any other persons or circumstances.

**18. Forward Contract:** The parties agree that this Contract and any transactions performed under this Contract constitute a "forward contract" within the meaning of the United States Bankruptcy Code and that Seller is a "forward contract merchant" within the meaning of the United States Bankruptcy Code.

**19. Third Party Beneficiary:** There are third party beneficiaries to this contract when applicable through a broker agreement.

**20. Waiver:** No waiver of any provision, breach or remedy under this Contract shall be binding unless in writing and signed by the party bound to such waiver. No waiver of any provision, breach or remedy under this Contract shall be deemed to be or otherwise constitute a waiver of any other provision, breach or remedy under this Contract (whether or not similar), nor shall such waiver constitute a continuing waiver unless otherwise expressly provided.

**21. Construction:** Should any provision of this Contract require interpretation by an arbitrator or court, it is agreed that such arbitrator or court interpreting or construing this Contract shall not construe any provision against one party more strictly by reason of any rule of interpretation that relates to the source of preparation of a document, it being agreed that the agents of both parties have participated in the preparation of this Contract and that legal counsel was consulted by each party prior to its execution.

**22. Entire Agreement:** This Contract sets forth all understanding between the parties respecting each transaction subject hereto, and any prior contracts, understandings, and representations, whether oral or written, relating to such transactions are merged into and superseded by this Contract.

**23. Relationship of Parties:** The relationship of the Parties under this agreement shall be that of independent contractors. Nothing in this Agreement shall constitute either a partnership or joint venture between the Parties, nor shall it constitute any Party to be the agent, employee, or representative of the other Party for any purpose. This provision will continue to be effective after the termination of this Agreement.