

**NATURAL GAS SERVICE MINIMUM USAGE AGREEMENT**

This Natural Gas Service Minimum Usage Agreement ("Agreement") is made this 13<sup>th</sup> day of January, 2020, by and between Duke Energy Kentucky, Inc. ("Company") and [REDACTED] ("Customer") with offices located at [REDACTED].

WHEREAS, Customer desires to receive new or expanded natural gas service from Company at its [REDACTED] located at [REDACTED] ("Customer's Location"); and

WHEREAS, Company currently does not have sufficient facilities in place to provide natural gas service to Customer's Location; and

WHEREAS, Customer and Company desire to facilitate and establish the terms upon which Company will: (i) construct expanded Company facilities to provide the aforementioned natural gas service to Customer's Location ("Incremental Customer Facilities"); and (ii) in Company's discretion, construct any additional or expanded facilities for Company's use, if so elected by Company ("Additional Company Facilities") (the Incremental Customer Facilities and the Additional Company Facilities being referred to in the aggregate as the "Total Project Facilities"); and

WHEREAS, Company has evaluated the economic feasibility of providing the requested service to Customer using its standard feasibility evaluation methodologies and has determined that construction of the Incremental Customer Facilities necessary to serve Customer is not economically feasible without a commitment by Customer to guarantee a minimum amount of natural gas consumption for billing purposes per year ("Annual Usage Requirements") from Customer over a determined period of 10 years (the total of the Annual Usage Requirements over the determined period is the "Cumulative Total Annual Usage Requirement"); and

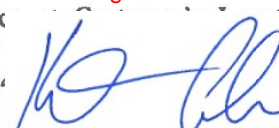
WHEREAS, Customer and Company both acknowledge that the actual annual volumetric usage, provided by Customer, could be insufficient to generate the aforementioned Annual Usage Requirements to allow the Company to recover its cost of investment in the Incremental Customer Facilities; and

NOW, THEREFORE, in consideration of the foregoing and the mutual promises and covenants set forth herein, Company and Customer hereby agree as follows:

**1. Project Description**

1.1 Customer proposes to utilize natural gas for space heating at Customer's Location. Customer represents that Customer's Location will have the potential to use a maximum of approximately [REDACTED] MCF of natural gas per hour ("Connected Load") at a designed delivery pressure of [REDACTED] psig for the meter located at the designated Southeast property location and a designed delivery pressure of [REDACTED] psig for the meter located at the designated Southwest property location with a total daily maximum usage of [REDACTED] MCF of natural gas. Customer understands that any changes to the specifications above may necessitate facility additions or modifications, and that such changes may require public service to the terms of this Agreement.

1.2 Based upon Customer's desire to receive natural gas service, Company agrees to use commercially reasonable efforts to provide natural gas service to Customer's Location. Facilities which will include (1) approximately 25,850 feet of 24 inch

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plastic main/service line and (2) meter and regulator facilities on Customer's property designed to accommodate the Connected Load and designed delivery pressures described in Section 1.1 above. In the event that Company elects not to construct any Additional Company Facilities in conjunction with its construction of the Incremental Customer Facilities, then the Incremental Customer Facilities shall be identical to the Total Project Facilities for purposes of interpreting and applying this Agreement.

## 2. Redelivery Services, Rates and Construction

2.1 Company agrees to provide [REDACTED] service to Customer's Connected Load at Customer's Location in the quantities and at the designed delivery pressure described in Section 1.1 above. Such service shall be provided under and subject to the prevailing approved terms and conditions of service and at the rates established for service under Company's prevailing Rate [REDACTED], including all associated riders, or such amendments or revisions thereto and [REDACTED] (see attachments), including all associated riders and any successor tariff sheets thereto, unless specifically provided otherwise and Company's Kentucky Service Regulations, as applicable. Customer acknowledges and agrees that the terms and conditions of service applicable to service under Rate [REDACTED], including all associated riders, may be amended from time to time upon the approval of the Kentucky Public Service Commission ("KPSC"). In the event of a conflict between the terms of Company's approved tariffs and the provisions of this Agreement, the terms of Company's approved tariffs shall control.

2.2 The Annual Usage Requirements set forth on Attachment A hereto have been calculated on the basis of Company's estimated cost of construction of the Incremental Customer Facilities to serve the Connected Load as well as the total annual usage revenue required to justify Company's investment in those facilities. Pursuant to the request of Customer, these Annual Usage Requirements are set forth proportionate to Customer's supplied annual usage amounts in order to more closely depict Customer's predicted annual usage levels over the Term of this Agreement. Company's estimated construction costs for the Incremental Customer Facilities is [REDACTED]. Company's estimated construction costs for the Total Project Facilities is [REDACTED]. In the event Company's actual costs to construct the Total Project Facilities varies from the estimate above, the Annual Usage Requirements set forth on Attachment A hereto, shall be adjusted up or down as follows: the Annual Usage Requirements shall be increased or decreased, as the case may be, by the ratio of Company's actual construction costs for the Total Project Facilities to Company's estimated construction costs for the Total Project Facilities. Company and Customer agree to amend this Agreement and Attachment A hereto following the completion of construction of the Total Project Facilities in order to adjust the Annual Usage Requirements to reflect the total actual cost of construction as provided above. Customer's monthly bill shall be calculated in accordance with section 5 below.

2.3 Company's service to Customer under this Agreement does not include interstate balancing or interstate imbalance resolution services. On-system balancing and imbalance resolution shall be governed by the provisions of Company's Rate [REDACTED].

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**3. Term; Termination**

- 3.1 Company will use commercially reasonable efforts to complete the installation of the Total Project Facilities by January 1, 2021. Company will also use commercially reasonable efforts to meet its estimated construction costs as described in Section 2.2 of this Agreement. Customer and Company both acknowledge that there may be external factors including, but not limited to, weather, excavation conditions, regulatory delays, material costs, labor costs or construction or supplier delays that may impact Company's ability to meet these dates and/or estimated construction costs. Customer shall promptly notify Company in writing when its natural gas burning equipment is ready to begin operations. Following the completion of the installation of the Total Project Facilities, the "In-Service Date" shall be the earlier of (a) the date Customer's equipment is ready for operations; or (b) the date Thirty (30) calendar days after completion of the Total Project Facilities.
- 3.2 This Agreement shall become effective on the date hereof and shall remain in effect until the earlier of: (i) the time the Cumulative Total Annual Usage Requirement specified in Attachment A is fulfilled; or (ii) 10 years from the In-Service Date ("Term"). Upon the expiration of the Term of this Agreement, and provided that Customer is not in breach hereof and has otherwise satisfactorily complied with all of its material obligations hereunder, Customer shall be entitled to continue service under Rate [REDACTED]. In the event Customer breaches this Agreement, or otherwise fails to provide the Cumulative Total Annual Usage Requirement contemplated hereunder during the Term of this Agreement, then Customer shall not have the right to continue service from Company until Customer has cured such breach and provided to Company the Cumulative Total Annual Usage Requirement specified in Attachment A.
- 3.3 Should Customer abandon any phase of the project for any reason prior to the In-Service Date, Customer will be responsible for and reimburse Company, upon demand, for any costs incurred by Company up to the point the project is abandoned (including in this instance a gross up for the income tax effect of such payment, but only if and to the extent the receipt of such amount by Company is treated as revenue for income tax purposes).
- 3.4 In the event of a facility closing, or other circumstances resulting in the cancellation or termination of gas service to Customer's Location after the In-Service Date but prior to fulfillment of the Cumulative Total Annual Usage Requirement specified on Attachment A, as such Cumulative Total Annual Usage Requirement may be amended pursuant to Sections 2.2 and 5.3 hereof, Customer will be billed for, and agrees to promptly pay, the unpaid balance of the Delivery Component, further defined herein, associated with the unfulfilled portion of the Cumulative Total Annual Usage Requirement on its final bill from Company.

**4. Ownership of Facilities; Responsibilities**

- 4.1 All pipelines and other facilities provided by Company, up to and including the gas meter and regulator, are and will remain the property and under the control of Company.
- 4.2 Customer shall be the owner of, and responsible for, the design and installation of gas lines or piping from the point of delivery which shall be the outlet side of the gas

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meter/regulator. Any underground fuel lines or piping from the outlet side of the gas meter/regulator may require cathodic protection which is the responsibility of Customer.


- 4.3 Customer shall provide access at all times to Company's facilities for the purpose of meter reading, inspection, repairs, maintenance, and all other activities as set forth in Company's tariff and service regulations.
- 4.4 Company reserves the right to change its metering from time to time for maintenance purposes and also to add remote meter reading devices or other equipment as it may desire for monitoring and measuring Customer's gas deliveries. Customer agrees to install 110 Volt electric service at its expense suitable for use with Company's Automatic Meter Reading equipment. Customer must install and maintain adequate protection for the 110 Volt electric service.

**5. Annual Usage Requirements**

- 5.1 Company's agreement to construct the Total Project Facilities and to provide the nature and quantity of service to Customer identified above is premised upon Customer's agreement to guarantee Annual Usage Requirements to Company from Customer as specified in Attachment A hereto for the Term of this Agreement. The annual period by which Customer's usage contributions shall be measured will begin on the In-Service Date.
- 5.2 Customer shall pay Company the rates and charges due Company for service rendered pursuant to Rate [REDACTED] and any applicable riders, as such rates and charges may be modified from time to time. These rates include an approved Delivery Component that may be adjusted from time to time pursuant to order of the KPSC.
- 5.3 A schedule showing the Annual Usage Requirements and Cumulative Total Annual Usage Requirement to be collected hereunder is attached to this Agreement as Attachment A. This schedule may be modified or amended, at Company's discretion, during the Term of this Agreement in order to account for any changes in the Delivery Component of Rate [REDACTED] and any applicable riders implemented as a result of a rate change in that Rate approved by the KPSC.
- 5.4 For purposes of calculating the Delivery Component recovered under Company's approved rates and charges, as provided in Section 5.2 above, the following costs or charges shall be excluded from such rates: applicable taxes, the commodity cost of gas, and all other rate adjustments.
- 5.5 In the event Customer's actual annual natural gas usage is less than the corresponding Annual Usage Requirement specified on Attachment A, Customer agrees to pay Company the difference between the Annual Delivery Component associated with Customer's actual annual natural gas usage and the Annual Delivery Component associated with the corresponding Annual Usage Requirement within 15 days of receipt of an invoice indicating a deficiency. In the event Customer's actual annual natural gas usage exceeds the corresponding Annual Usage Requirement specified on Attachment A, Company shall credit the positive usage balance to the subsequent year's Annual Usage Requirement.

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the requirement accordingly.


- 5.6 In the event of Involuntary Curtailment Days, defined as those days, or portions of days, during the Term of this Agreement where curtailment of Customer's natural gas service was imposed by Company's decision to curtail, Customer's Annual Usage Requirement applicable to such period shall be reduced proportionate to the lost opportunity to provide the associated Delivery Component resulting from such curtailment; provided, however, that such reduction in Annual Usage Requirements shall apply only to the annual period in which the curtailment occurs and shall not reduce the Cumulative Total Annual Usage Requirement obligations of Customer reflected on Attachment A. Any reduction in Annual Usage Requirements established pursuant to this Section 5.6 shall be added to the next annual period hereunder or to Customer's final invoice under this Agreement in the event such reduction occurs in the final year hereof. As used herein, the term "lost opportunity" means the Delivery Component applicable to a quantity of natural gas equal to the difference in the amount of natural gas nominated by Customer, and the amount of natural gas delivered during the period of curtailment.
- 5.7 Company reserves its right to require an initial deposit, subsequent deposit or another form of guaranty or adequate assurance of payment in accordance with 807 KAR 5:006 Section 8.

**6. Miscellaneous**

- 6.1 In the event that Company uncovers or otherwise finds an area on property owned or occupied by Customer where hazardous substances are or appear to be present, it will be the sole responsibility of Customer to comply with all regulatory requirements including, but not limited to, reporting, investigating, disclosing, and remediating the area of contamination. It is also the responsibility of Customer to disclose the contaminant(s) that Company's employees may have been exposed to during the installation of the Total Project Facilities. In addition, if Company's pipeline is made of medium density polyethylene, certain environmental contamination will cause the polyethylene to degrade prematurely. Any premature deterioration of Company's pipeline on Customer's property due to environmental contamination is the responsibility of Customer. In cases where it is still possible to install pipe, additional materials may be required such as casing or steel pipe to ensure that pipeline integrity is maintained. Any additional expense is the responsibility of Customer.

In the event that Company's personnel encounter on the property owned or occupied by Customer, soils that are stained, odors, or environmental contaminants, Company shall cease work and notify Customer within twenty-four (24) hours. In the event that contamination is found, it is Customer's responsibility to notify Company of the nature of the contamination and provide an estimate of exposure to Company's employees. Because Company does not provide training in Hazardous Waste Operations (HAZWOPER) as defined in Title 29 of the Code of Federal Regulations Part 1910.120, any future excavation in the area of the contamination must be performed by an outside firm.

Should any archaeological resources or cultural items (as defined in the Archaeological Resources Protection Act of 1979, the Native American Graves Protection and Repatriation Act Public Law or Section 106 of the National Historic Preservation Act of 1966) be found

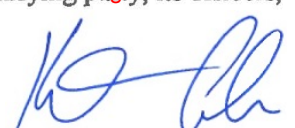
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during any excavation by Company on the property owned by Customer, Company shall cease work until it is determined whether or not the material is of a significant nature.

- 6.2 The gas to be delivered pursuant to the new gas service provided by this Agreement shall be natural gas, or its equivalent of the quality and characteristics as received by Company from the Interstate or Intrastate pipeline companies from which it receives its supply for delivery to its customers with such odorants added as Company may deem necessary.
- 6.3 Company will use reasonable efforts to deliver gas at pressures requested by Customer at the outlet side of the gas meter/regulator. It is mutually understood that, in times of emergency, high demand delivery, or during periods of construction and maintenance, the delivery pressure may fall below Customer's designed delivery pressure specified in Section 1.1 above; therefore, nothing contained herein shall be construed as implying a warranty by Company as to gas pressure. The measurement of gas delivered at pressures in excess of Company's standard Four (4) ounce water column pressure requires volumetric corrections to standard conditions and it is agreed that Company will correct the volume either mechanically, electronically or mathematically using correction factors in accordance with standard tables and where the installation of recording instruments is provided, the arithmetic average of the recorded data shall be used in computing gas volumes.
- 6.4 This Agreement shall be governed by and enforced in accordance with the laws of the Commonwealth of Kentucky without regard to the conflicts of laws provisions thereof.
- 6.5 In accordance with any previously executed non-disclosure agreements, Customer and Company shall take all reasonable measures to maintain the confidentiality of this Agreement and Customer's natural gas load and account information from public disclosure, including but not limited to when seeking any necessary approvals of this Agreement from regulatory agencies. Neither Company, nor Customer, shall use the other's (including its subsidiaries and affiliates) name, logos, copyrights, trademarks, service marks, trade names or trade secrets in any way without prior written consent, and neither party shall be deemed to have granted the other a license of, or any rights in, any of the foregoing by entering into this Agreement.
- 6.6 This Agreement and the terms and conditions contained herein represent the entire agreement between the parties with respect to matters addressed herein and supersedes all prior representations or contracts, both oral and written. No modification of the terms and provisions of this Agreement shall be effective except by written agreement of the parties hereto.
- 6.7 Company and Customer each assume full responsibility and liability for the maintenance and operation of their respective properties and facilities and shall indemnify, save, defend and hold harmless the other party from all liability and expense, including reasonable fees of attorneys, on account of any and all losses, liabilities, damages, costs, expenses, claims, suits and actions paid, incurred, suffered by, or asserted against either party, including injury to and death of persons, arising from the indemnifying party's breach of this Agreement, its agent's or employees' negligent act or omission, or any fault or negligence of the indemnifying party, in respect of, as a consequence of, or in connection with the installation, maintenance and operation of the property, equipment and facilities of the indemnifying party, its agent or employees.

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directors, agents or employees.

- 6.8 No waiver by either party of any one or more defaults by the other in the performance of any provision of this Agreement shall operate or be construed as a waiver of any future default, or defaults, whether of a like or a different character.
- 6.9 Customer and Company, respectively, bind themselves, their agents, successors, assigns (including affiliates) and legal representatives to covenants, agreements and obligations contained in the Agreement. Neither the Customer nor the Company shall assign this Agreement without the written consent of the other, except that the Customer and Company may assign this Agreement; (a) to any of its affiliates that maintain significant operations and sufficient financial resources to meet the obligations of this Agreement, or (b) in connection with any merger, consolidation, reorganization, sale, or similar transaction pursuant to which the assignee is the successor in interest of all or substantially all of the assignor's assets. In such event, the assignee shall assume the assignor's rights and obligations under the Agreement. Except as provided above, neither party to the Agreement shall assign the Agreement as a whole without written consent of the other. If either party attempts to make such an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Agreement. For any assignment by Customer that does not require written consent of the Company, Customer shall provide prompt written notice to Company so that Company may effectuate any necessary billing system changes that may be necessary to continue performance under the Agreement.
- 6.10 This Agreement is made in all respects subject to the terms and provisions of Kentucky Revised Statutes Chapter 278 and acts amendatory thereto and shall be subject to applicable federal and state laws and applicable orders, rules and regulations of any local, state or federal governmental authority having or asserting jurisdiction; provided, however, that nothing contained herein shall be construed as a waiver of any right to question or contest any such law, order, or regulation in any forum having jurisdiction over the subject matter. This Agreement is subject to all necessary regulatory and governmental approvals and permits including all necessary authorizations from the KPSC and other applicable federal, state, county, and local authorities and nothing contained herein shall be construed as divesting, or attempting to divest, any regulatory body of any of its rights, jurisdiction, powers or authority conferred by law. The parties agree to use their best efforts to obtain such approvals and permits and to cooperate in good faith to execute all papers necessary to effectuate the mutual obligations contemplated herein.
- 6.11 Neither of the parties hereto shall be liable for damages to the other for any act, omission or circumstance occasioned by or in consequence of any acts of Force Majeure to include acts of God, strikes, lockouts, acts of the public enemy, wars, blockades, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, storms, floods, washouts, prolonged or extreme cold, civil disturbances, explosions, breakage or accident to machinery or lines of pipe, gas curtailment imposed by interstate or intrastate pipelines, the binding order of any court or governmental authority which has been resisted in good faith by all reasonable legal means, and any other cause, whether or not of the kind herein enumerated, which is not reasonably within the control of the party claiming suspension and which, by the exercise of due diligence, such party is unable to prevent or overcome. Failure to prevent or overcome

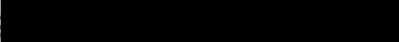
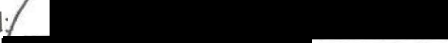
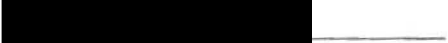
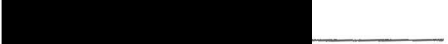
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strike or strikes shall not be considered to be a matter within the control of the party claiming suspension. If either party is rendered unable, wholly or in part, by an event of Force Majeure, to carry out its obligations, except for the payment of monies, under this Agreement, it is agreed that on such party's provision of written notice and reasonably full particulars of the reason for the Force Majeure (by electronic communication or mail) to the other party within a reasonable period of time after the occurrence of the cause relied upon, then the obligations of the party giving such notice, so far as they are effected by such event of Force Majeure, shall be suspended during the continuance of any such Force Majeure event, but for no longer period, provided that such party exercises due diligence to overcome such Force Majeure with all reasonable dispatch.

- 6.12 Any notice required by this Agreement shall be deemed to have been given if given to any officer of the other party. However, specific individuals other than officers may, from time to time, be designated, in writing, as authorized to receive notices. Notice of curtailment may be given orally, either in person or by telephone.
- 6.13 Customer and Company warrant and represent that the person signing this Agreement on its behalf is authorized to do so pursuant to valid corporate action.
- 6.14 IN WITNESS WHEREOF, the parties agree and accept each and every Term and Condition set forth in this Agreement and acknowledge their understanding and agreement by signing this Agreement below:

Customer:   
Signed:   
By:   
Title:   
Address: \_\_\_\_\_  
\_\_\_\_\_

Duke Energy Kentucky, Inc.   
Signed:   
By:   
Title:   
Address: \_\_\_\_\_  
\_\_\_\_\_

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**Attachment A: Annual Usage Requirement Schedule**

Customer: [REDACTED]  
 Location: FLORENCE, KENTUCKY

Year	Annual Delivery Component	Annual Usage Requirements under Rate [REDACTED] *
1	[REDACTED]	[REDACTED] MCF
2	[REDACTED]	[REDACTED] MCF
3	[REDACTED]	[REDACTED] MCF
4	[REDACTED]	[REDACTED] MCF
5	[REDACTED]	[REDACTED] MCF
6	[REDACTED]	[REDACTED] MCF
7	[REDACTED]	[REDACTED] MCF
8	[REDACTED]	[REDACTED] MCF
9	[REDACTED]	[REDACTED] MCF
10	[REDACTED]	[REDACTED] MCF
Cumulative Total Annual Usage Requirement:		[REDACTED] MCF

\* Actual Annual Delivery Components generated by usage may vary due to seasonal usage profiles and/or changes to delivery components within approved rates.

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