

**Special Provisions To Base Contract for Sale and Purchase of Natural Gas (“Special Provisions”)**  
**Dated April 1, 2019 by and between**  
**The East Ohio Gas Company, dba Dominion Energy Ohio (“DEO”) and \_\_\_\_\_ (“Counterparty”)**

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These Special Provisions are part of and supplement or revise the North American Energy Standards Board (“NAESB”) Standard 6.3.1, Revision September 5, 2006, Base Contract for Sale and Purchase of Natural Gas.

**SECTION 1. PURPOSE AND PROCEDURES**

Purpose and Scope - Section 1.1 is amended by adding the following to the beginning of this Section: “Counterparty has submitted an Auction bid at the SSO Clearing Price, and has been awarded one or more tranches as more fully described in the Transaction Confirmation(s) executed pursuant to this Contract. The Commission has approved the Auction bid at the SSO Clearing Price, and DEO and Counterparty have agreed to perform in accordance with the Auction procedures and subject to the Commission’s approval of the Auction and in accordance with this Contract. The purpose and scope of this Contract shall be exclusively to effectuate Transaction Confirmations for Counterparty’s tranches awarded at the Auction.”

Interpretation of Contract - The following provisions amends and restates the last sentence of Section 1.3: “In the event of a conflict among the terms of (i) a binding Transaction Confirmation pursuant to Section 1.2, (ii) the oral agreement of the parties which may be evidenced by a recorded conversation, where the parties have selected the Oral Transaction Procedure of the Base Contract, (iii) the Program, (iv) the Base Contract, (v) these Special Provisions and (vi) the General Terms and Conditions (“GTCs”) of DEO’s Energy Choice Pooling Service (“ECPS”) which are on file with the Commission, the terms of the documents shall govern in the priority listed in this sentence.”

**SECTION 2. DEFINITIONS**

Contract - Section 2.9 is amended and restated as follows:

“Contract” shall mean the legally-binding relationship established by (i) the Base Contract, (ii) any and all binding Transaction Confirmations, (iii) where the parties have selected the Oral Transaction Procedure in Section 1.2 of the Base Contract, any and all transactions that the parties have entered into through an EDI transmission or by telephone, with the offer and acceptance in accordance with Section 1.2 of the Base Contract, (iv) the Program and (v) the GTCs of the ECPS as more particularly set forth in Section 3.5.

“Contract Price” – Section 2.10 is amended by replacing “MMBtu” with “Mcf”.

Credit Support Obligation - Section 2.13 is amended and restated as follows:

“Credit Support Obligation(s)” shall mean financial support provided to secure the obligations of a party to this Contract such as a Letter of Credit, a margin agreement, a prepayment, a security interest in an asset, a performance bond, guaranty, or other good and sufficient security of a continuing nature as mutually agreed on by the parties, and any obligation(s) in respect of the foregoing, all of which obligations and security shall be provided at the sole expense of the party whose credit is being supported in a form, substance and amount that is reasonably acceptable to the other party and consistent with credit and collateral requirements set-forth herein; provided that DEO shall have no obligation to provide or establish Credit Support Obligations under this Contract so long as it continues to perform in compliance with the Program.

The following definitions are added to the end of Section 2:

“Auction” shall mean a supply auction based on a competitive bidding process approved by the Commission in accordance with the terms of its Program.

“Choice Program” shall mean the transportation program established by Section D-1 of the GTCs of DEO’s ECPS.

“Commission” shall mean the Public Utilities Commission of Ohio.

“Default Fee” shall be initially set at twenty cents (\$0.20) per Mcf as adjusted periodically in accordance with Section 10 herein.

“Information Package” shall mean the applicable Standard Service Offer and Standard Choice Offer Auction Information Package issued by DEO as further clarified and modified by any revisions made thereto prior to the Auction.

"Letter of Credit" shall mean one or more irrevocable, non-transferable standby letters of credit issued by a Qualified Institution, in a form acceptable to the party in whose favor the letter of credit is issued. Costs of a Letter of Credit shall be borne by the applicant for such Letter of Credit.

"Mcf" shall mean one thousand cubic feet when measured at a pressure of fourteen and seventy-three hundredths pounds per square inch at a temperature of 60 degrees Fahrenheit.

"Program" shall mean the program instituted by DEO as a result of the authorization received from the Public Utilities Commission of Ohio pursuant to Commission Order in Docket 07-1224-GA-EXM, to conduct an Auction for the purpose of securing SSO supply as described in the Information Package.

"Qualified Institution" shall mean a U.S. office of a major commercial bank (which is not an affiliate of either party) organized under the laws of the United States (or any state or a political subdivision thereof) or a Schedule I Canadian Bank with a U.S. branch office and, in either case, having assets of at least \$10 Billion and a long term debt rating or deposit rating of at least (i) A3 from Moody's and (ii) A- from S&P. In the event there is only one rating from either Moody's or S&P, the long term debt rating or deposit rating must be at least (i) A3 from Moody's or (ii) A- from S&P.

"SSO" shall mean Standard Service Offer.

"SSO Clearing Price" shall mean the price per Mcf established through a Program Auction.

### **SECTION 3. PERFORMANCE OBLIGATION**

Counterparty supply obligations – Section 3.1 is amended by adding the following to the end of this Section: "The number of tranches that Counterparty must supply shall be stated in the applicable Transaction Confirmation. Counterparty shall deliver supplies at the volumes and locations determined by DEO in accordance with the GTCs of DEO's ECPS and the Information Package. DEO will use commercially reasonable efforts to notify Counterparty of any known pending material changes in delivery volumes attributable to default, significant changes in Choice Program participation or other similar factors."

Incorporation of DEO General Terms and Conditions – Add the following as a new Section 3.5:

3.5 The capacity and operational aspects of DEO's ECPS GTCs shall apply to Counterparty, except as those ECPS GTCs that specifically refer to retail relationships between suppliers and customers and except as those ECPS GTCs that are inconsistent with this Contract.

Add the following as a new Section 3.6:

3.6 In the event a Counterparty participating in the Program defaults, as determined by DEO, DEO shall use the defaulting Counterparty's collateral designated for payment of the Default Fee, which shall be made available to DEO, and/or the non-defaulting Counterparties that serve the defaulted load in proportion to the number of tranches awarded to each. DEO shall initially solicit volunteers from non-defaulting Counterparties to serve the load no longer being supplied by a defaulting Counterparty at the initial SSO Clearing Price, as adjusted from time to time. In the event multiple non-defaulting Counterparties agree to serve the defaulted load, such defaulted load shall be awarded proportionally to the tranches served based on the Auction results. In the event that non-defaulting Counterparties are unwilling to serve the entire defaulted load, DEO shall source alternative supplies to meet its provider-of-last-resort ("POLR") obligation as set forth in the Information Package. After it has fulfilled its POLR obligation, DEO shall assign the defaulted load to non-defaulting Counterparties to be served at the initial SSO Clearing Price, as adjusted from time to time. The maximum increase in the share of the SSO supply originally awarded the non-defaulting Counterparty shall be 50%, i.e., a Counterparty is only obligated to serve at most the equivalent of 1.5 tranches for each tranche originally awarded in the Program Auction. Counterparties may voluntarily provide more than that volume up to one-third of the total tranches to be served after the default. If the increase in volume assigned to remaining non-defaulting Counterparties would exceed 50%, DEO shall conduct a supplemental Auction for the remainder in conjunction with, and under the supervision of, the Commission and staff.

### **SECTION 7 BILLING, PAYMENT AND AUDIT NOTE**

Delete Sections 7.1 and 7.2, and replace in its entirety with the following new Section 7.1

7.1 Unless otherwise agreed to by the parties in writing, DEO shall reimburse Counterparty via wire transfer on the first business day on or after the 15<sup>th</sup> of each month for the prior month's supply volume. At the time of such reimbursement, DEO shall provide Counterparty with information supporting such reimbursement (the "invoice"). DEO shall initially pay an amount for the Gas calculated by multiplying the volumes delivered to its system for the applicable month, adjusted for DEO's then effective BTU conversion and fuel retention rates, by the applicable price for the month. A monthly true-up for volumes and amounts billed to Counterparty to ensure that the amount paid

for the Gas purchased by DEO from Counterparty pursuant to the Program equals the amounts billed to customers for commodity service over the term of the Contract. Counterparty shall have the options available to reconcile monthly imbalance volumes set forth in the GTC's of the ECPS. DEO shall assume all risk of collection of delinquent customer payments and all meter reading and billing costs, so that Counterparty will be paid by DEO for all volumes delivered (net of BTU conversion and fuel) to DEO, regardless of DEO's collections of receivables.

Renumber the existing Section 7.3, 7.4, 7.5, 7.6 and 7.7 to Sections 7.2, 7.3, 7.4, 7.5 and 7.6, respectively.

## **SECTION 10. FINANCIAL RESPONSIBILITY**

Section 10.1 is amended by: (i) in the fifth line, deleting "standby irrevocable letter of credit" and replacing the phrase with "Letter of Credit"; and (ii) adding the following to the end of this Section: "DEO shall be under no obligation to post Adequate Assurance of Performance so long as it operates the Program pursuant to the GTC's of the ECPS and the Information Package."

Default Fee – Add the following as Section 10.1.1:

**10.1.1** Notwithstanding the foregoing and in addition to any other Credit Support Obligations, Counterparty shall be required to post sufficient collateral with DEO to secure payment of the Default Fee on all volumes that the Counterparty is obligated to serve through the remainder of this Contract. Such additional credit support shall be posted by Counterparty within 10 days of approval of the SSO Clearing Price by the Commission, and shall be in the form of a Letter of Credit. DEO will establish a baseline weighted average cost of Gas based upon the NYMEX forward months as each settles on the day of the Auction ("Baseline WACOG NYMEX"), and will use this WACOG NYMEX, as adjusted each month, to compare to the then current monthly closing NYMEX price and all remaining NYMEX futures months for the duration of the Auction, weighted using the same methodology utilized to create the baseline WACOG NYMEX ("Monthly WACOG NYMEX"). For each full \$1.00 increase in the Monthly WACOG NYMEX over the Baseline WACOG NYMEX, Counterparty shall be required to post an additional \$0.06 per Mcf to be served through the remainder of the Contract, and the Default Fee shall be adjusted by the same amount, to reflect the additional risk. When conducting this analysis, DEO shall eliminate from the equation each prior Month's price and volume from the both the Baseline WACOG NYMEX and Monthly WACOG NYMEX equations. In no event shall the Default Fee be adjusted below \$0.20 per Mcf. DEO shall update the Default Fee collateral requirement on a monthly basis from November through March.

Early Termination Damages Apply – Add the following to the end of the first paragraph of Section 10.3.1:

Notwithstanding the foregoing, in the event the Program is terminated by the applicable state law, Commission or a court of competent jurisdiction, DEO's payment of any early termination damages shall be limited to that amount which it is able to recover under a Gas Cost Recovery or similar mechanism subsequently imposed by the Commission.

Add a new Section 10.8 as follows:

Section 10.8 "The Parties acknowledge and agree that this Contract and any Transactions hereunder (i) are being entered into solely for activity resulting from the SSO Phase 2 portion of the auction process conducted by DEO, (ii) do not require any credit support on the part of DEO and (iii) are hereby expressly excluded from coverage under any guaranty agreement or other credit support mechanism on behalf of DEO or its guarantor that is in existence at the time this Contract is executed."

## **SECTION 12. TERM**

Continuation of Confidentiality Obligation - Add "Section 15 .10" to the enumerated sections in the second line.

## **SECTION 15. MISCELLANEOUS**

Conflict of Laws and Waiver of Jury trial - Add the following to the end of Section 15 .5:

EACH PARTY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY SUIT, ACTION OR PROCEEDING RELATING TO THIS CONTRACT.

Single Integrated Agreement - Add the following as Section 15 .13:

**15.13** This Contract is entered into in reliance on the parties' agreement that the documents forming this Contract, form a single integrated agreement between the parties, and the parties would not otherwise enter into this Contract.

IN WITNESS WHEREOF, the parties hereto have executed these Special Provisions to the Base Contract in duplicate, as of the date of the Base Contract.

The East Ohio Gas Company d/b/a Dominion Energy Ohio \_\_\_\_\_

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Name: D. Michael Cornwell

Name:

Title: Authorized Representative

Title:

Date: \_\_\_\_\_

Date: \_\_\_\_\_