

## Contract for Sale and Purchase of Natural Gas

This Contract for Sale and Purchase of Natural Gas (the "Contract") is entered into this June 20, 2023, by and between Seller and Buyer as set forth below. Seller and Buyer may be referred to herein individually as "Party" and collectively as "Parties". The Parties agree as follows:

Seller: Summit Energy, LLC Address: 201 South Main, 20 <sup>th</sup> Floor Salt Lake City, Utah 84111 Phone: (435) 940-9001 Fax: (435) 940-9002	Buyer: Tooele County Address: 47 S Main St. Tooele, UT 84070 Phone: 435-843-3310 Email: Alison.mccoy@tooeleco.org
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**SECTION 1. TERM, DELIVERY PERIOD, CONTRACT QUANTITY, PRICE, DELIVERY POINT, AND SERVICE LEVEL**

1.1. This Contract shall be effective as of the date set forth above and shall endure until the expiration of the Delivery Period as set forth herein including any extension thereof. The obligations to make payment hereunder and the obligation of either party to indemnify the other pursuant hereto shall survive the termination of this Contract.

1.2. The Delivery Period, Contract Quantity, Contract Price, Delivery Point, and Service Level shall be as follows:

Delivery Period:	Beginning with Dominion billing period encompassing July 1, 2023 and continuing for a period of twelve (12) months, and then extended year to year thereafter until terminated by either party with 60 days written notice.
Quantity:	100% of Buyer's natural gas requirements to Meter.
Contract Price:	Inside FERC Northwest Pipeline "Rockies" monthly Index as quoted by Platts Gas Market Report Plus \$0.10/MMBtu, Plus SNG cost of \$0.48/MMBtu. Plus fuel costs as published in the tariff. Currently 2.5%
Delivery Point:	Dominion Citygate
Service Level:	Firm, Full Requirements
Special Provisions:	<p>Buyer is responsible for all Dominion Energy costs (billed in a separate Dominion invoice), and Dominion Energy Pipeline max rate transportation and fuel.</p> <p>In addition to contract price, seller will charge buyer 1/3 of the Dominion QGC billed daily imbalance fee per mmbtu of buyer's actual usage. In exchange, seller is required to reimburse all estimated Dominion QGC imbalance fees charged to buyer on Dominion QGC billing.</p>

## **SECTION 2. DEFINITIONS**

The terms set forth below shall have the meaning ascribed to them below. Other terms are also defined elsewhere in the Contract and shall have the meanings ascribed to them herein.

- 2.1. "British thermal unit" or "Btu" shall mean the International BTU, which is also called the Btu (IT)
- 2.2. "Business Day" shall mean any day except Saturday, Sunday or Federal Reserve Bank holidays.
- 2.3. "Contract" shall mean the legally-binding relationship established by this Contract for the Purchase and Sale of Natural Gas.
- 2.4. "Contract Price" shall mean the amount expressed in U.S. Dollars per MMBtu to be paid by Buyer to Seller for the purchase of Gas as set forth in Section 1.
- 2.5. "Contract Quantity" shall mean the quantity of Gas to be delivered and taken as set forth in Section 1
- 2.6. "Day" shall mean a period of 24 consecutive hours, coextensive with a "day" as defined by Dominion Energy.
- 2.7. "Delivery Period" shall be the period during which deliveries are to be made as set forth in Section 1.
- 2.8. "Delivery Point(s)" shall mean such point(s) as set forth in Section 1 where Gas will be delivered by Seller to Buyer.
- 2.9. "Firm" shall mean that either party may interrupt its performance without liability only to the extent that such performance is prevented for reasons of Force Majeure.
- 2.10. "Gas" shall mean any mixture of hydrocarbons and noncombustible gases in a gaseous state consisting primarily of methane.
- 2.11. "MMBtu" shall mean one million British thermal units, which is equivalent to one dekatherm.
- 2.12. "Month" shall mean the period beginning on the first Day of the calendar month and ending immediately prior to the commencement of the first Day of the next calendar month.

## **SECTION 3. SERVICE LEVEL, AGENCY AGREEMENT, NOMINATIONS, AND IMBALANCES**

- 3.1. Seller agrees to sell and deliver, and Buyer agrees to receive and purchase, the Contract Quantity at the service level set forth in Section 1 herein.
- 3.2. Seller shall deliver Gas at the Delivery Point(s) for redelivery by Dominion Energy to Buyer's facility. The delivery of Gas by Dominion from the Delivery Point(s) to Buyer's facility shall be transported subject to a Utah Transportation Service Agreement between Buyer and Dominion ("Buyer's TS Agreement"). Seller shall act as Buyer's agent for the purposes of scheduling and balancing Gas under Buyer's TS Agreement for the redelivery of Gas to Buyer's facility. Any positive imbalance (Gas quantity delivered by Seller at the Delivery Point in excess of the quantity of Gas consumed by Buyer at Buyer's facility) shall be owned by Seller. Any negative imbalance (gas consumed by Buyer at Buyer's facility in excess of the quantity of Gas delivered by Seller at the Delivery Point) shall be the responsibility of Seller.
- 3.3. Buyer shall promptly communicate any material change to its Gas usage quantity to help facilitate the scheduling of Gas to the Delivery Point(s) and on Buyer's TS Agreement.

## **SECTION 4. QUALITY AND MEASUREMENT**

All Gas delivered by Seller shall meet the pressure, quality and heat content requirements of Dominion. The unit of quantity measurement for purposes of this Contract and the measurement of Gas quantities hereunder shall be in accordance with the established procedures of Dominion.

## **SECTION 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(s). Buyer shall pay or cause to be paid all Taxes on or with respect to the Gas at and after the Delivery Point(s). 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. Any party entitled to an exemption from any such Taxes or charges shall furnish the other party any necessary documentation thereof.

## **SECTION 6. BILLING, PAYMENT, AND AUDIT**

6.1. Seller shall invoice Buyer each month for Gas delivered and received in the preceding Month at Buyer's facility including all applicable charges including Gas, transportation charges, fuel, or other costs incurred to deliver Gas to Buyer's facility. Said invoice shall include supporting documentation acceptable in industry practice to support the amount charged. If the actual quantity delivered to Buyer's facility is not known by the billing date, billing will be prepared based on an estimated quantity calculated using the volume of Gas

scheduled for delivery by Dominion to Buyer's facility. The invoiced quantity will then be adjusted to the actual quantity on the following Month's billing or as soon thereafter as actual delivery information is provided by Dominion.

6.2. Buyer shall remit the amount due hereunder within 20 Days after receipt of the invoice by Buyer provided that if the Payment Date is not a Business Day, payment is due on the next Business Day following that date.

6.3. If the invoiced party, in good faith, disputes the amount of any such invoice or any part thereof, such invoiced party will pay such amount as it concedes to be correct; provided, however, if the invoiced party disputes the amount due, it must provide supporting documentation acceptable in industry practice to support the amount paid or disputed. In the event the parties are unable to resolve such dispute, either party may pursue any remedy available at law or in equity to enforce its rights pursuant to this Section.

6.4. If the invoiced party fails to remit the full amount payable when due, interest on the unpaid portion shall accrue from the date due until the date of payment at a rate equal to the lower of (i) the then-effective prime rate of interest published under "Money Rates" by The Wall Street Journal, plus two percent per month; or (ii) the maximum applicable lawful interest rate.

6.5. A party shall have the right, at its own expense, upon reasonable Notice and at reasonable times, to examine and audit and to obtain copies of the relevant portion of the books, and records of the other party only to the extent reasonably necessary to verify the accuracy of any statement, charge, payment, or computation made under the Contract. This right to examine, audit, and to obtain copies shall not be available with respect to proprietary information not directly relevant to this Contract. All invoices and billings shall be conclusively presumed final and accurate and all associated claims for under or overpayments shall be deemed waived unless such invoices or billings are objected to in writing, with adequate explanation and/or documentation, within one year after the Month of Gas delivery.

#### **SECTION 7. TITLE, WARRANTY, AND INDEMNITY**

7.1. Unless otherwise specifically agreed, title to the Gas shall pass from Seller to Buyer at the Delivery Point(s). Seller shall have responsibility for and assume any liability with respect to the Gas prior to its delivery to Buyer at the specified Delivery Point(s). Buyer shall have responsibility for and any liability with respect to said Gas after its delivery to Buyer at the Delivery Point(s).

7.2. Seller warrants that it will have the right to convey and will transfer good and merchantable title to all Gas sold hereunder and delivered by it to Buyer, free and clear of all liens, encumbrances, and claims.

7.3. 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 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 or property damage from said Gas or other charges thereon which attach after title passes to Buyer.

#### **SECTION 8. NOTICES**

8.1. All invoices, payments and other communications made pursuant to this Contract ("Notices") shall be made to the addresses specified in writing by the respective parties from time to time.

8.2. All Notices required hereunder may be sent by facsimile or mutually acceptable electronic means, a nationally recognized overnight courier service, first class mail or hand delivered.

8.3. Notice shall be given when received on a Business Day by the addressee. In the absence of proof of the actual receipt date, the following presumptions will apply. Notices sent by facsimile shall be deemed to have been received upon the sending party's receipt of its facsimile machine's confirmation of successful transmission. If the day on which such facsimile is received is not a Business Day or is after five p.m. on a Business Day, then such facsimile shall be deemed to have been received on the next following Business Day. Notice by overnight mail or courier shall be deemed to have been received on the next Business Day after it was sent or such earlier time as is confirmed by the receiving party. Notice via first class mail shall be considered delivered five Business Days after mailing.

#### **SECTION 9. CREDIT WORTHINESS**

9.1. If Seller has reasonable grounds for insecurity regarding the payment by Buyer for gas sold hereunder (including, without limitation, the occurrence of a material change in the creditworthiness of Buyer), Seller may demand Adequate Assurance of Performance. "Adequate Assurance of Performance" shall mean sufficient security in the form, amount and for the term reasonably acceptable to Seller, including, but not limited to, a standby irrevocable letter of credit or a prepayment.

9.2. In the event (each an "Event of Default") either party (the "Defaulting Party") or its guarantor shall: (i) make an assignment or any general arrangement for the benefit of creditors; (ii) file a petition or otherwise

commence, authorize, or acquiesce in the commencement of a proceeding or case under any bankruptcy or similar law for the protection of creditors or have such petition filed or proceeding commenced against it; (iii) otherwise become bankrupt or insolvent (however evidenced); (iv) be unable to pay its debts as they fall due; (v) have a receiver, provisional liquidator, conservator, custodian, trustee or other similar official appointed with respect to it or substantially all of its assets; (vi) fail to give Adequate Assurance of Performance; or (vii) not have paid any amount due the other party hereunder on or before the fifth Business Day following written notice that such payment is due; then the other party (the "Non-Defaulting Party") shall have the right, at its sole election, to immediately withhold and/or suspend deliveries upon notice and/or to terminate the Contract.

#### **SECTION 10. FORCE MAJEURE**

10.1. Except with regard to a party's obligation to make payment(s) or to indemnify the other party as set forth herein, neither party shall be liable to the other for failure to perform an obligation, to the extent such failure was caused by Force Majeure. The term "Force Majeure" as employed herein means any cause not reasonably within the control of the party claiming suspension, as further defined herein.

10.2. Force Majeure shall include, but not be 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) interruption and/or curtailment or recalling of transportation and/or storage by Transporters; (iv) acts of others such as strikes, lockouts or other industrial disturbances, riots, sabotage, insurrections or wars; and (v) 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. Seller and Buyer shall make reasonable efforts to avoid the adverse impacts of a Force Majeure and to resolve the event or occurrence once it has occurred in order to resume performance.

10.3. The party whose performance is prevented by Force Majeure must provide Notice to the other party. Initial Notice may be given orally; however, written Notice with reasonably full particulars of the event or occurrence is required as soon as reasonably possible. Upon providing written Notice of Force Majeure to the other party, the affected party will be relieved of its obligation, from the onset of the Force Majeure event, to make or accept delivery of Gas, as applicable, to the extent and for the duration of Force Majeure, and neither party shall be deemed to have failed in such obligations to the other during such occurrence or event.

#### **SECTION 11. LIMITATIONS**

FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY. A PARTY'S LIABILITY HEREUNDER SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION, AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED HEREIN, A PARTY'S LIABILITY SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY. SUCH DIRECT ACTUAL DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. UNLESS EXPRESSLY HEREIN PROVIDED, NEITHER PARTY SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION OR OTHERWISE. IT IS THE INTENT OF THE PARTIES THAT THE LIMITATIONS HEREIN IMPOSED ON REMEDIES AND THE MEASURE OF DAMAGES BE WITHOUT REGARD TO THE CAUSE OR CAUSES RELATED THERETO, INCLUDING THE NEGLIGENCE OF ANY PARTY, WHETHER SUCH NEGLIGENCE BE SOLE, JOINT OR CONCURRENT, OR ACTIVE OR PASSIVE. TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, OR OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT AND THE DAMAGES CALCULATED HEREUNDER CONSTITUTE A REASONABLE APPROXIMATION OF THE HARM OR LOSS.

#### **SECTION 12. MISCELLANEOUS**

12.1. This Contract shall be binding upon and inure to the benefit of the successors, assigns, personal representatives, and heirs of the respective parties hereto, and the covenants, conditions, rights and obligations of this Contract shall run for the full term of this Contract. No assignment of this Contract, in whole or in part, will be made without the prior written consent of the non-assigning party (and shall not relieve the assigning party from liability hereunder), which consent will not be unreasonably withheld or delayed; provided, either party may (i) transfer, sell, pledge, encumber, or assign this Contract or the accounts, revenues, or proceeds hereof in connection with any financing or other financial arrangements, or (ii) transfer its interest to any parent or affiliate by assignment, merger or otherwise without the prior approval of the other party. Upon any such assignment, transfer and



assumption, the transferor shall remain principally liable for and shall not be relieved of or discharged from any obligations hereunder.

12.2. If any provision in this Contract is determined to be invalid, void or unenforceable by any court having jurisdiction, such determination shall not invalidate, void, or make unenforceable any other provision, agreement or covenant of this Contract.

12.3. No waiver of any breach of this Contract shall be held to be a waiver of any other or subsequent breach.

12.4. This Contract sets forth all understandings between the parties and any prior contracts, understandings and representations, whether oral or written, relating to such transactions are merged into and superseded by this Contract. This Contract may be amended only by a writing executed by both parties.

12.5. The interpretation and performance of this Contract shall be governed by the laws of the State of Utah.

12.6. This Contract and all provisions herein will be subject to all applicable and valid statutes, rules, orders and regulations of any governmental authority having jurisdiction over the parties, their facilities, or Gas supply, this Contract or transaction or any provisions thereof.

12.7. There is no third-party beneficiary to this Contract.

12.8. Each party to this Contract represents and warrants that it has full and complete authority to enter into and perform this Contract. Each person who executes this Contract on behalf of either party represents and warrants that it has full and complete authority to do so and that such party will be bound thereby.

12.9. The headings and subheadings contained in this Contract are used solely for convenience and do not constitute a part of this Contract between the parties and shall not be used to construe or interpret the provisions of this Contract.

12.10. During the Term of this Contract, neither party shall disclose directly or indirectly without the prior written consent of the other party the terms of this Contract to a third party (other than the employees, lenders, counsel, accountants and other agents of the party, or prospective purchasers of all or substantially all of a party's assets or of any rights under this Contract, provided such persons shall have agreed to keep such terms confidential) except (i) in order to comply with any applicable law, order, regulation, or exchange rule, or (ii) to the extent necessary for the enforcement of this Contract.

IN WITNESS WHEREOF, the parties hereto have executed this Base Contract in duplicate.

<b>Seller:</b>	<b>Summit Energy LLC</b>
<b>By:</b>	
<b>Title:</b>	
<b>Date:</b>	

<b>Buyer:</b>	TOOELE COUNTY
<b>By:</b>	Jan A. Wells
<b>Title:</b>	COUNTY MANAGER
<b>Date:</b>	6/26/2027

APPROVED AS TO FORM:

 06/23/2023

**Colin R. Winchester**  
**Deputy Tooele County Attorney**

EXHIBIT A

TRANSACTION CONFIRMATION  
FOR IMMEDIATE DELIVERY

	Date: 07/25/2023 Transaction Confirmation #TooeleCounty23
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This Transaction Confirmation is subject to the Base Contract between Seller and Buyer. 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> Summit Energy, LLC 201 South Main Salt Lake City, UT 84111  Attn: Alex Milne Phone: 801-503-7708 Fax: 435-940-9002 Base Contract No. _____ Transporter: _____ Transporter Contract Number: _____	<b>BUYER: Tooele County</b> 47 South Main Tooele, UT 84074 ATTN: Alison McCoy Phone: 435-843-3310 Fax: _____ Base Contract No. _____ Transporter: _____ Transporter Contract Number: _____
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Fixed Contract Price: Fixed Price \$5.75

Delivery Period: Begin: 8/1/2023 End: 07/31/2025

	Jan-24	3939	Jan-25	3939
	Feb-24	2896	Feb-25	2896
	Mar-24	3460	Mar-25	3460
	Apr-24	1996	Apr-25	1996
	May-24	1760	May-25	1760
	Jun-24	2690	Jun-25	2690
	Jul-24	2647	Jul-25	2647
Aug-23	2681	Aug-24	2681	
Sep-23	776	Sep-24	776	
Oct-23	1645	Oct-24	1645	
Nov-23	2966	Nov-24	2966	
Dec-23	3921	Dec-24	3921	

APPROVED AS TO FORM:

*Colin Winchester 07/25/2023*

Colin R. Winchester  
Deputy Tooele County Attorney

Delivery Point(s): Dominion Energy Citygate(s)

**Special Conditions:**

Cash-out Provision: Any hedged volume which is not consumed by buyer will be cashed-out at the difference between the contract price and Platt's IF NW ROX Index Flat.

Buyer is responsible for Dominion Charges in separate bill, Transportation, and Fuel.

Volumes consumed over hedged volumes will be billed based on base contract terms.

Seller: <u>Summit Energy, LLC</u> By: _____ Title: _____ Date: _____	Buyer: <u>TOOELE COUNTY</u> By: <u>Jan A. Wallace</u> Title: <u>COUNTY MANAGER</u> Date: <u>7/26/2023</u>
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