

**MURRAY E. BEVAN**  
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August 5, 2020

**VIA ELECTRONIC FILING**

Pennsylvania Public Utility Commission  
Secretary  
400 North Street, Keystone Building  
Harrisburg, PA 17120

**Re: *Marathon Power, LLC d/b/a Marathon Energy***  
***A-2018-2641168***  
***PA Long Form Base Contract for the purchase of natural gas***

Dear Secretary Chiavetta:

On behalf of Marathon Power, LLC d/b/a Marathon Energy (“Marathon”), enclosed please find a sample of the Long Form Base Contract for the Purchase of Natural Gas which will be used by Marathon to acquire large commercial and industrial customers in Pennsylvania. This is a new contract for natural gas customers only and will be used in addition to the two PA customer contracts previously filed on July 27, 2020.

Thank you for your attention to this filing. Please do not hesitate to contact me if you have any questions.

Respectfully submitted,



Murray E. Bevan

Enclosures

cc: Tammy Maule (via electronic mail only)



Dual Billed:  Yes  No REF ID: \_\_\_\_\_

## BASE CONTRACT FOR THE PURCHASE OF NATURAL GAS GENERAL TERMS AND CONDITIONS

THIS AGREEMENT is made and entered into as of \_\_\_\_\_ (the "Effective Date") by and between Marathon Power LLC D/B/A Marathon Energy ("Marathon"), an independent Natural Gas Supplier ("NGS"), with its principal office at 62-01 34<sup>th</sup> Avenue, Woodside, NY 11377, and \_\_\_\_\_ ("Customer") with its principal office at \_\_\_\_\_ (together the "Parties"). Marathon is licensed by the Pennsylvania Public Utility Commission ("PAPUC" or "Commission") to offer and supply natural gas in Pennsylvania. Our PAPUC license number is A-2018-2641168.

The entire agreement between the Parties includes these terms and conditions, and any binding and effective Attachment 1, Transaction Confirmation(s), and/or Trigger Confirmation(s) ("Agreement" or "Contract").

### 1. DEFINITIONS.

(a) "Basis" shall mean Marathon's per Dekatherm locational charge to Customer for providing the Gas at a particular Delivery Point.

(b) "City Gate" shall mean the interconnection of the interstate pipeline and an NGDC or at the interconnection of local production and an NGDC.

(c) "Contracted Monthly Usage" shall mean Customer's monthly volumes for a particular gas account as set forth in Attachment 1 to any effective Transaction Confirmation.

(d) "Converted Price" shall mean the conversion of the Price from a Variable Price to a Fixed Price, which shall include Basis, for the Converted Volumes for the remaining or otherwise agreed upon Term of the Agreement. A Converted Price may also be referred to as a "Lock-in Price" or a "Locked-in Price" in a Transaction Confirmation or Trigger Confirmation.

(e) "Converted Volumes" shall mean the agreed upon portion of Customer's remaining Contracted Monthly Usage for the agreed upon portion of the Term of the Agreement. A Converted Volume may also be referred to as a "Lock-in Volume" or a "Locked-in Volume" in a Transaction Confirmation or Trigger Confirmation.

(f) "Dth" shall mean Dekatherm.

(g) "Delivery Point" shall mean NGDC's City Gate.

(h) "Fixed Price" shall mean a fixed price per Dth, which shall include Basis, to be paid by Customer to Marathon for Gas for all Contracted Monthly Usage for the Term of the Agreement.

(i) "Force Majeure" shall mean acts of God, strikes, lockouts or other industrial disturbances; laws, rules, regulations or orders of any utility, government, agency, political subdivision or instrumentality thereof having jurisdiction; injunction or judicial restraints; explosions; breakage, failure, or freezing of pipelines or wells; weather related events; curtailment of firm capacity on pipeline system; pandemics, or other medical outbreaks or emergencies; and any other causes of a similar nature not reasonably within the control of the party claiming the inability to perform.

(j) "Gas" shall mean the volumes of natural gas delivered to the accounts of Customer as set forth in any effective Transaction Confirmation.

(k) "NGDC" shall mean Customer's public gas utility, which provides natural gas distribution services.

(l) "Notification" shall mean a transmission or communication between Customer and Marathon by facsimile, e-mail, or recorded telephone call.

(m) "NYMEX" shall mean the New York Mercantile Exchange which maintains a futures market for crude oil and natural gas.

(n) "NYMEX Settlement Price" shall mean the settlement price for a natural gas futures contract on the last day of trading for such futures contract as established by NYMEX for the applicable month.

(o) "NYMEX Three Day Settlement Price" shall mean the average settlement price for a natural gas futures contract for the last three days of trading for such futures contract as established by NYMEX for the applicable month.

(p) "Price" shall mean the price(s) per Dth to be paid by Customer to Marathon for the Gas as provided for in any effective Transaction Confirmation or Trigger Confirmation. A Price may be a Variable Price, Fixed Price, Triggered Price, or Converted Price.

(q) "Triggered Price" shall mean the conversion of the Price from a Variable Price to a Fixed Price (i.e., a confirmed fixed NYMEX price) plus Basis (i.e., Customer shall pay Basis in addition to the Triggered Price) for a certain Triggered Volume as set forth in an effective Trigger Confirmation.

(r) "Triggered Volume" shall mean a portion of Customer's Contracted Monthly Usage as set forth in an effective Trigger Confirmation.

(s) "Unused Volumes" shall mean the unused portion of the Contracted Monthly Usage for a particular month that fall outside of the tolerance specified in Section 4(b)(ii) of this Contract.

(t) "Variable Price" shall mean the monthly variable price per Dth to be paid by Customer to Marathon for the Gas equal to the monthly NYMEX Settlement Price plus Basis, the NYMEX Three Day Settlement Price plus Basis, or other applicable pricing index plus Basis as provided for in the effective Transaction Confirmation (For example, the October Variable Price would be calculated using the October NYMEX Settlement Price plus Basis if NYMEX Settlement Price is used).

## **2. VOLUME.**

Marathon shall sell natural gas to Customer through the NGDC's system on a firm basis. Marathon shall be Customer's sole gas supplier for Customer's Gas. Customer shall be a customer under the terms and conditions set forth in the NGDC's applicable Service Classifications (as determined for each gas account referenced on the Transaction Confirmation executed and delivered simultaneously herewith and any additional gas accounts referenced on any subsequently effective Transaction Confirmations) and any other terms and conditions of its tariff and policies.

## **3. DELIVERY.**

(a) Marathon shall deliver the Gas to the Delivery Point (the associated transportation charge up to the Delivery Point is included in the Price). The NGDC shall deliver gas to Customer and Customer shall be responsible for any and all costs regarding delivery of the Gas from the Delivery Point to Customer's meter, all as provided under the NGDC's tariff; with such costs to be billed either separately by the NGDC or as an additional item by Marathon, as applicable by gas account.

(b) Title to the Gas shall pass from Marathon to Customer at the Delivery Point. Marathon shall be deemed to be in control and possession of the Gas and responsible for any damage, claim, liability or injury and bear the risk of loss prior to delivery at the Delivery Point. Customer shall be deemed to be in possession and control of the Gas and responsible for any damage, claim, liability or injury and bear the risk of loss upon delivery at the Delivery Point. Each party shall indemnify and hold the other harmless from claims of any nature attributable to the Gas when it is in the possession and control of such party.

#### 4. PRICE/TAXES.

(a) Price. Customer shall pay the Price on all volumes of gas delivered by Marathon as set forth under the applicable Transaction Confirmation (or if Customer subsequently elects to trigger a price, a Trigger Confirmation).

(b) Usage Variance. Marathon shall rely on and deliver gas based on Customer's contract consumption information agreed to under any effective Transaction Confirmation. Customer's Contracted Monthly Usage commitments, and the Parties' related rights and obligations with respect to over-usage and under-usage of such committed volumes, shall be separately determined per gas account as reflected in any effective Transaction Confirmation delivered hereunder.

(i) Over Use. If Customer consumes in excess of 110% of Customer's Contracted Monthly Usage for gas being supplied in any month for such gas account then Customer agrees to pay Marathon for such excess at the Variable Price presently in effect (or previously in effect if Customer has locked-in 100% of its Contracted Monthly Usage at a Converted Price or Triggered Price) as set forth in a Transaction Confirmation (or at the Fixed Price if no Variable Price was established), provided however, that Marathon reserves the right to charge a per Dth market price for such excess. Such market price will be based on market commodity costs and transportation costs to deliver such Gas to the Delivery Point, as determined in Marathon's reasonable discretion.

(ii) Under Use. If Customer consumes less than 90% of Customer's Contracted Monthly Usage for gas being supplied in any month for such gas account resulting in Unused Volumes, Customer agrees to pay at such time the positive difference, if any, between the applicable Price less the market price, per Dth, for such Unused Volumes. Such market price will be based on market commodity costs, as determined in Marathon's reasonable discretion.

(c) Triggered Price. Marathon and Customer may agree to convert Customer's Variable Price to a Triggered Price for certain Triggered Volumes as set forth in an effective Trigger Confirmation. Marathon will endeavor to lock in and confirm a Trigger Price only if the Parties agree on a proposed Trigger Price and Customer provides Notification to Marathon prior to 12:00 Noon on the applicable NYMEX contract expiration date of Customer's desire to purchase at the agreed-to proposed Triggered Price. Customer agrees that such Notification shall constitute Customer's firm irrevocable offer to purchase (i.e. "lock-in") at the proposed Triggered Price for the term, volume, and fixed price as set forth in the Notification. If Marathon accepts such offer, Marathon will confirm such Notification by returning a Trigger Confirmation to Customer via facsimile or e-mail. Customer shall pay a total price per Dth equal to the agreed upon Triggered Price as provided for in the effective Trigger Confirmation. Triggered Volumes are the first volumes delivered to Customer during the month. To provide Customer with a Triggered Price, Marathon will take positions in the natural gas futures market. Accordingly, Customer agrees to pay any damages suffered by Marathon with respect to such positions as a result of or in connection with Customer's breach of this Agreement. The pricing provision(s) otherwise applicable under this Agreement will be used for untriggered volumes. There shall be no tolerance on over-use or under-use of Triggered Volumes. Force Majeure shall not affect Customer's responsibility for losses related to Triggered Volumes described above. In the event that the last effective Transaction Confirmation expires at a date earlier than the last effective date specified in a Trigger Confirmation, the expiration of the last effective Transaction Confirmation shall be extended to coincide with the last effective date specified in a Trigger Confirmation.

(d) Converted Price. Marathon and Customer may agree to convert Customer's Variable Price to a Converted Price for the Converted Volumes as set forth in an effective Trigger Confirmation. Marathon will endeavor to lock in and confirm a Converted Price only if the Parties agree on a proposed fixed price and Customer provides Notification to Marathon prior to 12:00 Noon on the applicable NYMEX contract expiration date of Customer's desire to lock-in the agreed-to proposed Converted Price. Customer agrees that such Notification shall constitute Customer's firm irrevocable offer to purchase (i.e. "lock-in") at the proposed Converted Price as set forth in the Notification. If Marathon accepts such offer, Marathon will confirm such Notification by returning a Trigger Confirmation to Customer via facsimile or e-mail. Customer shall then pay a total price per Dth equal to the agreed upon Converted Price as provided for in the effective Trigger Confirmation. To provide Customer with a Converted Price, Marathon will take positions in the natural gas futures market. Accordingly, Customer agrees to pay any damages suffered by Marathon with respect to such positions as a result of or in connection with Customer's breach of this Agreement. Force Majeure shall not affect Customer's responsibility for losses related to Converted Volumes described above. In the event that the last effective Transaction Confirmation expires at a date earlier than the last effective date

specified in a Trigger Confirmation, the expiration of the last effective Transaction Confirmation shall be extended to coincide with the last effective date specified in a Trigger Confirmation.

(e) Fixed Price. Marathon and Customer may agree to a Fixed Price for the Term of the Agreement. Customer shall pay a total price per Dth or Mcf equal to the agreed upon Fixed Price as provided for in the effective Transaction Confirmation. To provide Customer with a Fixed Price, Marathon will take positions in the natural gas futures market. Accordingly, Customer agrees to pay any damages suffered by Marathon with respect to such positions as a result of or in connection with Customer's breach of this Agreement. Force Majeure shall not affect Customer's responsibility for losses related to such Fixed Price positions.

(f) Taxes. The Price is exclusive of any applicable federal, state, and local taxes and fees, assessments, surcharges or other governmental charges by whatever name, including, but not limited to, Gross Receipts, Sales, Use, and Import Fee. Any taxes, fees, charges, surcharges, or assessments of any nature and by whatever name (excluding Marathon's income tax) levied by any governmental authority in connection with this Agreement (whether now in effect or later enacted or otherwise made applicable) shall be paid by Customer. If Marathon is required by law or otherwise to pay such levy and/or fines relating thereto, Customer shall reimburse the full amount paid by Marathon upon receipt of the applicable invoice. Customer's liability shall survive termination of this Agreement. If Customer claims an exemption from any applicable taxes, Customer must provide Marathon with a proper exemption certificate prior to Marathon's delivery of any natural gas, the sale of which is covered by such exemption certificate. Unless specifically provided for in Customer's exemption certificate, such exemption shall not apply to any current or later enacted and imposed state or federal assessments, fees, or surcharges.

## 5. PAYMENT

(a) Upon receiving meter readings (and any estimated readings) from the NGDC, Marathon shall bill Customer. Payment is due within fifteen (15) days of the invoice date.

(b) The NGDC may bill Customer separately for transportation charges. For Customers with contracted volumes of 25,000 Mcf/year or less: Marathon reserves the right to have the NGDC provide bills to Customer. Any such bills shall be upon the same terms and conditions as set forth in this Agreement unless inconsistent with the billing provisions of the NGDC's effective tariff, in which case the tariff billing provisions shall control.

(c) Interest of 1-1/2% per month shall accrue on any overdue balance and shall be in addition to any other remedies available to Marathon in regard to such late payment. A fee of \$35.00 will be charged for any returned checks.

(d) Marathon's invoices and Customer's remittances hereunder shall be sent by United States mail, postage pre-paid, addressed in accordance with Section 10.

(e) If Customer does not make a payment when due or if Marathon learns of circumstances which in Marathon's reasonable judgement may render Customer unable to make payment when due (which may include, but shall not be limited to, any credit insurance cancellation or reduction in the amount of such coverage, any public expectation that Customer or Customer's parent, if any, may not be able to meet ongoing obligations, or any other public financial information associated with the insecurity of Customer or Customer's parent, if any, etc.), Marathon may require Customer, at Marathon's sole discretion, to provide or increase security or pre-payment and to execute all related amendments or other necessary documentation, sufficient in Marathon's reasonable judgment, to ensure payment for Gas deliveries. Marathon may suspend deliveries of Gas until such security or pre-payment or increase in such security or pre-payment is provided. Further, if Customer is late in paying any invoice, Marathon has the right to require weekly payment for gas to be delivered hereunder (or Marathon's estimate of such deliveries).

(f) Customer will be entitled to a refund of any substantiated overcharges discovered within one (1) year after the billing date, provided Customer makes a claim within two (2) months of discovery. Marathon has the right, at any time, even after the termination or expiration of this Agreement, to bill and be paid for any NGDC adjustments for service under this Agreement. Marathon also is entitled to bill and be paid for any substantiated undercharges discovered within one (1) year after the original billing date if the corrected billing is made within two (2) months of the discovery.

## **6. WARRANTY OF TITLE.**

Marathon warrants good title to the Gas free and clear of all liens, encumbrances, and claims whatsoever, and hereby covenants and agrees to indemnify, protect, save harmless, and undertake the defense of Customer to and from all claims (whether groundless or not), demands, liens, actions, suits, recoveries, damages, losses, costs, compensation, and expenses (including legal expenses) of any kind arising out of the adverse claim of any and all persons relating to title to the Gas.

## **7. LIMITATION ON LIABILITY.**

Marathon shall not be liable for any indirect, special, incidental, lost profits, consequential, or punitive damages arising out of or related to this Agreement. Marathon's liability for damages shall not exceed the replacement cost less expenses saved for the Gas nominated in the month in which the damage occurred.

## **8. TERM/TERMINATION.**

(a) This Agreement shall become effective as of the Effective Date and shall continue thereafter until all Transaction Confirmations and Trigger Confirmations entered into hereunder have terminated ("Term"). Further, at the end of any Transaction Confirmation, if a new Transaction Confirmation is not executed, and Customer continues to receive gas from Marathon, this Agreement shall remain in full force and effect on a month-to-month basis and Customer agrees to pay Marathon's applicable variable price, as Customer's unit Price plus applicable capacity related charges, until Customer and Marathon mutually agree to enter into a new Transaction Confirmation or either party cancels this Agreement by providing thirty (30) days prior written notice. This Agreement shall be extended beyond its termination as necessary to effectuate the balancing of any over or under deliveries of Gas and the payment for any Gas delivered. In the event Customer closes or sells any facility resulting in the failure by Customer to take Gas under the Contract, Customer is liable to Marathon for (i) all damages (including, but not limited to, basis loss) incurred by Marathon in connection with such closure or sale and (ii) any positions taken by Marathon in the natural gas futures market with respect to any undelivered natural gas that was to be purchased by Customer at a Variable Price, Converted Price, Fixed Price, or Triggered Price.

(b) In addition to any other remedy it may have, Marathon shall have the right to terminate this Agreement upon at least two (2) business days' notice in the event that Customer fails to make timely payments as required herein or otherwise materially breaches this Agreement. Customer shall remain liable for all gas delivered to Customer's account until Customer returns to the NGDC or another supplier, and shall also compensate Marathon for all damages incurred by Marathon as a result of or in connection with such termination, including without limitation any such damages arising in connection with any positions taken by Marathon in the natural gas futures market with respect to any undelivered natural gas that was to be purchased at a Variable Price, Fixed Price, Converted Price, or Triggered Price.

(c) If a receiver is appointed for Customer or Customer's property, or if Customer becomes insolvent or unable to pay its debts in the ordinary course of business, makes an assignment or trust for the benefit of creditors, or if any proceeding is commenced by, for, or against Customer under the provisions of any bankruptcy, insolvency, or debtor's relief laws, Marathon may terminate in whole or in part this Agreement by written notice to Customer, or, at Marathon's option, demand security or pre-payment under Section 5(e).

## **9. FORCE MAJEURE: OPERATIONS.**

(a) If, due to Force Majeure, either party is unable, wholly or in part, to carry out its obligations under this Agreement, upon such party's giving notice and reasonable details of such Force Majeure to the other party within a reasonable time after the occurrence of the cause relied on, the obligation of the party giving such notice, so far as and as long as they are affected by such Force Majeure, shall be nullified. The parties understand and agree that Force Majeure may prevent Marathon from providing Gas at the agreed upon Price, in which case, Marathon may, at Marathon's discretion, temporarily provide gas to Customer at the market price available to Marathon and Customer agrees to pay such market price.

(b) Force Majeure shall not affect: (1) Customer's obligation to pay for Gas that has been delivered to the Delivery Point and (2) Customer's responsibility for losses related to volumes sold at a Fixed Price, Triggered Volumes under paragraph 4(c), and Converted Volumes under paragraph 4(d).

(c) In the event the NGDC and/or a transporting pipeline declares a supply emergency, such as an operational flow order or otherwise, even if no event of Force Majeure exists, the parties shall use commercially reasonable efforts to avoid the imposition of any imbalance charges. The parties understand and agree that such efforts may involve the purchase by Customer from Marathon of then-current market price gas.

## 10. MISCELLANEOUS.

(a) Successors and Assigns. This Agreement shall be binding on and inure to the benefit of the Parties hereto and their respective successors and assigns, but may not be assigned by Customer without the written consent of Marathon, such consent not to be unreasonably withheld. Should Customer's assets be acquired by any successor and such successor consumes gas delivered by Marathon, then this Agreement shall be deemed to have been assigned to such successor and such successor and Customer shall be jointly and severally responsible for any and all outstanding amounts due under the Agreement.

(b) Third Party Agent. If a third party agent, representative, consultant, or similar entity of the Customer (collectively, the "Agent") is involved with the consummation of this Contract, Customer understands and agrees (1) that a transaction fee relating to Gas delivered to Customer may be paid by Marathon to Agent and (2) that such transaction fee may be included in the Price as well as any Market Price-Over Use. Customer represents and warrants that Customer has been provided with notification by the Agent of items (1) and (2) of the preceding sentence. Customer hereby expressly acknowledges and grants Agent authority, as Customer's agent, to (i) fix Customer's Contracted Monthly Usage and associated pricing terms, (ii) provide and fix any Prices and Basis, including, but not limited to, Variable Price, Triggered Price, Converted Price, or Fixed Price, and any and all volumes, including, but not limited to, Triggered Volumes or Converted Volumes, (iii) grant all consents required from Customer, (iv) give all notices required to be given by Customer, (v) receive all notices directed to Customer and (vi) receive invoices or statements of delivery and other documents delivered to Customer. Customer shall be legally bound by any of Agent's actions with respect to the above activities. In the event that Customer terminates Agent's authority to act as its agent, Customer shall provide written notice to Marathon. Customer will be liable for any and all actions taken on its behalf by Agent up to and including the date on which Marathon receives notice of such termination, and Marathon shall be fully entitled to rely on the directions and consents provided by Agent prior to the receipt of such notice.

(c) Drafting Presumptions. No presumption shall operate in favor of Customer or against Marathon as a result of the drafting of this Agreement.

(d) Waiver. No waiver by Customer or Marathon of any default of the other party under this Agreement shall operate as a waiver of any subsequent default, whether of a like or different character.

(e) Notices. All notices to be given hereunder shall be in writing and sent by pre-paid mail, email, or facsimile, addressed to the respective Parties at the addresses stated below or at such other addresses as they shall respectively designate in writing from time to time.

To Marathon: 62-01 34th Avenue, Woodside NY 11377  
Email: [customerservice@mecny.com](mailto:customerservice@mecny.com)  
Phone: 1.888.779.7255

To Customer: \_\_\_\_\_  
Email: \_\_\_\_\_  
Phone: \_\_\_\_\_

**In the event of a gas emergency or for any safety-related questions, Customer must call its NGDC.**

(f) Governing Law and Dispute Resolution. This Agreement shall be construed in accordance with, and its provisions governed by, the laws of the Commonwealth of Pennsylvania without giving effect to the conflicts of laws provisions thereof. If a dispute arises out of or relates to this Agreement or its breach, the Customer and Marathon shall endeavor to settle the dispute first through direct discussions. Any questions or complaints should be directed to Marathon's Customer Service Center (Email: [customerservice@mecny.com](mailto:customerservice@mecny.com); Phone: 1.888.779.7255). If a controversy or claim arising out of or pertaining to this Agreement or its breach is not resolved through such direct

discussions, each party hereto irrevocably and unconditionally consents to submit to the exclusive jurisdiction of the courts of the Commonwealth of Pennsylvania located in the County of Erie, which courts shall be the exclusive forum for any actions, suits, or other proceedings relating to the terms, covenants, or conditions of this Agreement, or any matters whatsoever arising out of or in any way connected with this Agreement and the transactions contemplated hereunder, and each party hereto irrevocably and unconditionally waives and agrees not to plead or claim in any such court that any such action, suit, or proceeding brought in any such court has been brought in an inconvenient forum. During the pendency of any dispute, Customer must pay all bills in full, except for the specific disputed amount, if any. Alternatively, a dispute or complaint may be submitted by either party at any time to the Pennsylvania Public Utility Commission at 400 North Street, Harrisburg, PA 17120; 1-800-692-7380; [http://www.puc.state.pa.us/filing\\_resources/filing\\_complaints.aspx](http://www.puc.state.pa.us/filing_resources/filing_complaints.aspx); or you may contact the Pennsylvania Office of Consumer Advocate; [www.oca.state.pa.us](http://www.oca.state.pa.us).

(g) Entire Agreement and Modification. This Agreement is the full and complete agreement between Marathon and Customer and can only be amended in a writing signed by both Parties. This Agreement shall supersede all prior agreements and understandings between the Parties with respect to the subject hereof. In the event of a conflict between the terms of this Agreement and any Transaction Confirmation and/or Trigger Confirmation hereto, the terms of the Transaction Confirmation and/or Trigger Confirmation shall prevail. Should Customer's NGDC classification change, Customer shall pay any costs (i.e. capacity costs) associated with such change. In addition, upon notice to Customer, Marathon may modify this Agreement based on changes to applicable tariffs, rules (including the NGDC's "Gas Transportation Operating Procedures"), regulations, or laws. However, if any change affects Customer's price or Customer's payment terms under this Agreement, Marathon will give Customer written notice at least thirty (30) days before the change is effective.

(h) Survival. Any and all warranties, representations, and indemnifications contained herein shall survive the termination of this Agreement.

(i) Authorization. Customer hereby authorizes Marathon to access and/or receive all of Customer's account(s) information, including service applications, historical consumption, daily meter readings, payment and credit information from the NGDC or upon request of Marathon, to otherwise provide the same to Marathon. This information may be used by Marathon to determine whether it will commence and/or continue to provide energy supply service to Customer and will not be disclosed to a third party unless required by law. Customer may rescind such authorization for the release of this information at any time by providing written notice thereof to Marathon or by calling Marathon at 1.888.779.7255. Marathon reserves the right to terminate this Agreement in the event Customer rescinds the authorization.

(j) Severability. If any clause, sentence, paragraph, or part of this Agreement should be declared or rendered unlawful by a court or regulatory agency of competent jurisdiction, the remainder of this Agreement shall remain in full force and effect.

(k) Headings and Exhibits. The headings used for the Articles and Sections herein are for convenience and reference purposes only and shall in no way affect the meaning or interpretation of the provisions of this Agreement. All Exhibits referenced in this Agreement are hereby incorporated for all purposes.

(l) Obligations of Federal Contractors and Subcontractors. This Agreement is subject to the requirements of 29 CFR Part 470, if applicable.

(m) Name Change. Customer agrees to provide Marathon with thirty (30) days prior written notice of any change of Customer's name.

(n) Forward Contract Merchants. Customer and Marathon agree that the transactions hereunder constitute a "forward contract" within the meaning of the United States Bankruptcy Code and that Customer and Marathon are each "forward contract merchants" within the meaning of the United States Bankruptcy Code.

(o) Contract Execution. Customer may accept all Terms and Conditions set forth above and incorporated herein, and cause this Agreement to be executed by providing Customer's written signature below or by such alternative forms of written, oral, or electronic authorization as identified in 52 Pa. Code § 111.7 or as the PAPUC may permit to initiate retail energy supply service, including an audio recording of a customer agreeing to the switch verbally on a telephone call or an electronic document completed and uploaded to Marathon's website or e-mailed to the



Marathon by Customer. Such alternative forms of verification shall be treated and deemed enforceable as if Customer had provided an original written signature. The Agreement may be executed in counterparts, each of which shall be an original and all of which shall constitute one and the same instrument.

**IN WITNESS WHEREOF** Customer and Marathon hereby accept all Terms of Service set forth on these pages and incorporated herein and have caused this agreement to be executed:

For Marathon Power LLC:

For Customer:

\_\_\_\_\_  
Agent/Broker Name (Printed)

\_\_\_\_\_  
Customer Name (Printed)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

Marathon reserves the right to reject any agreement that proves to be unacceptable upon Marathon's Internal Review. Marathon will only notify said customer if the agreement is not accepted.

Office Use Only Legacy ID:

Approved by:

Date:



**TRANSACTION CONFIRMATION  
TO BASE CONTRACT FOR THE PURCHASE OF NATURAL GAS  
GENERAL TERMS AND CONDITIONS ("Contract")**

THIS TRANSACTION CONFIRMATION ("Confirmation") is made and entered into as of \_\_\_\_\_ by and between Marathon Power, LLC d/b/a Marathon Energy with its principal office at 62-01 34<sup>th</sup> Avenue, Woodside, NY 11377 ("Marathon") and \_\_\_\_\_ ("Customer") with its principal address at \_\_\_\_\_.

This Confirmation shall be subject to the Contract between Marathon and Customer dated \_\_\_\_\_.

|  |   |
|--|---|
| Marathon:  | Customer: _____   |
| <b>PAYMENTS &amp; INQUIRIES TO:</b><br><b>Attn:</b> Marathon Energy<br>Accounts Receivable Dept.<br>62-01 34 <sup>th</sup> Avenue<br>Woodside, NY, 11377<br><br><b>Email:</b> <a href="mailto:treasury@mecny.com">treasury@mecny.com</a><br><b>Phone:</b> 888-378-9898 | <b>INVOICES &amp; INQUIRIES TO:</b><br><b>Attn:</b> _____<br>_____<br>_____<br><br><b>Email:</b> _____<br><b>Phone:</b> _____ |

|   |   |
|---|---|
| <b>SERVICE LOCATION(S) &amp; ACCOUNT NUMBER(S):</b> | Please see Account Addendum.  |
| <b>QUANTITY:</b>                                    | Contracted Monthly Usage is set forth in Schedule A.  |
| <b>TERM:</b>  | ____ months beginning on the first eligible meter reading date on or after _____.   |
| <b>PRICE:</b>                                       | \$ _____ per _____ at the <input type="checkbox"/> City Gate <input type="checkbox"/> Burnertip delivered to the _____.<br>This price is subject to all applicable taxes. |
| <b>SPECIAL CONDITIONS:</b>                          |   |

This Transaction Confirmation may be executed by email.

|                         |                         |
|-------------------------|-------------------------|
| <b>Marathon</b>         | <b>Customer:</b> _____  |
| <b>Signature:</b> _____ | <b>Signature:</b> _____ |
| <b>Name:</b> _____      | <b>Name:</b> _____      |
| <b>Title:</b> _____     | <b>Title:</b> _____     |
| <b>Date:</b> _____      | <b>Date:</b> _____      |
| <b>Rep:</b> _____       |                         |



**LOCK-IN CONFIRMATION - CONVERTED PRICE**

|           |  |         |   |
|-----------|--|---------|---|
| Date      |  | Page(s) | 1 |
| To:       |  | From:   |   |
| Customer: |  | CC:     |   |
| E-Mail:   |  | E-Mail  |   |
| Phone:    |  | Phone:  |   |

THIS TRANSACTION CONFIRMATION ("Confirmation") is made and entered into as of \_\_\_\_\_ by \_\_\_\_\_ and between Marathon Power, LLC d/b/a Marathon Energy with its principal office at 62-01 34<sup>th</sup> Avenue, Woodside, NY 11377 ("Marathon") and \_\_\_\_\_ ("Customer").

Customer authorizes Marathon to trigger the below referenced price based on Marathon's best efforts to lock in the requested Converted Price. Marathon will confirm to Customer if the targeted Converted Price is established by signing below. All terms and conditions of the Base Contract for the Purchase of Natural Gas – General Terms and Conditions ("Contract") between Marathon and Customer for the purchase of natural gas shall apply, except to the extent modified herein. Capitalized terms used in this Trigger Confirmation shall have the same meaning as set forth in the Contract.

This Confirmation shall be subject to the Contract between Marathon and Customer dated \_\_\_\_\_.

**Converted Price and Converted Volume**

\$\_\_\_\_\_ per \_\_\_\_\_ at the  City Gate  Burnertip delivered to the Delivery Point ( \_\_\_\_\_ ) for the calendar period(s) listed below:

| Month | Lock-In % | Lock-In Volume (Dth - Citygate) |
|-------|-----------|---------------------------------|
|       |           |                                 |
|       |           |                                 |
|       |           |                                 |
|       |           |                                 |

|                    |  |
|--------------------|--|
| Account Numbers(s) |  |
|--------------------|--|

This Transaction Confirmation may be executed by email

| Customer Authorization: | Price Confirmed:                         |
|-------------------------|--|
| Customer: _____         | Marathon Power LLC d/b/a Marathon Energy |
| Signature: _____        | Signature: _____                         |
| Name: _____             | Name: _____                              |
| Title: _____            | Title: _____                             |
| Date: _____             | Date: _____                              |