

## Ohio Residential and Small Commercial Customer Terms of Service

This is an agreement for natural gas service between Spark Energy Gas, LLC (Spark Energy) and you, for the service address or addresses set forth in your Welcome Letter or Natural Gas Service Agreement. Together, the terms of service set forth herein, and your Welcome Letter or Natural Gas Service Agreement (“NGSA”) collectively describe your agreement with respect to your purchase of natural gas service from Spark Energy (Agreement). You will be bound by all the provisions of the Agreement, as they may be amended from time to time. Spark Energy is licensed by the Public Utility Commission of Ohio to offer and supply natural gas services in Ohio. We set the supply prices and charges that you pay. Your Local Distribution Utility will deliver the natural gas to you. The Public Utility Commission regulates distribution prices and services. The Federal Energy Regulatory Commission regulates transmission prices and services.

### Definitions

- Small Commercial Customer – A nonresidential customer that has annual usage of less than 5,000 ccf therms during the most recent consecutive 12 month period.
- Local Distribution Utility (LDU) – A gas or electric corporation owning, operating or managing electric or gas facilities for the purpose of distributing gas or electricity to end users.
- Commodity Charge – Charge for the supply of natural gas.
- Public Utility Commission of Ohio (PUCO) – the Public Utility Commission of Ohio.
- Transmission Charge – Charge for moving natural gas from a supply point to the distribution system of a natural gas distribution company.

**Right of Rescission - Customers have the right to rescind this Agreement within seven (7) business days following the postmark date on the LDU’s confirmation notice.**

### Terms of Service

#### 1. Basic Service Prices.

Your rate plan will be as specified in your Welcome Letter or Natural Gas Service Agreement.

*Fixed Rate Plan:* You will pay the fixed rate per therm as specified in your Welcome Letter or Natural Gas Service Agreement for the length of your Term. You may also pay a monthly administrative fee, the amount of which, if applicable, is disclosed in your Welcome Letter or Natural Gas Service Agreement. You will incur additional charges for the LDU’s services.

*Immediate Savings Plan:* For the first two months of your plan, you will receive a specified percentage savings (shown in your Welcome Letter) off of the LDU’s base energy rate for natural gas supply. Thereafter, you will receive Spark Energy’s standard variable rate which will vary according to market conditions. You may also pay a monthly administrative fee, the amount of which, if applicable, is disclosed in your Welcome Letter or Natural Gas Service Agreement. You will incur additional charges for the LDU’s services.

*Variable Rate Plan:* A month-to-month plan where your rate may vary according to market conditions.

The rate you pay Spark Energy will include the Commodity Charge and Transmission Charge. Your price does not include applicable Ohio sales tax, use tax, local tax or gross receipt taxes imposed by Ohio State Tax Law. You are responsible for any and all taxes (whether passed through to you on LDU’s bill as a separate line item or as part of the price of natural gas, as required by law, rule or regulation) and LDU charges for delivery and distribution services. Except as otherwise provided in this Agreement or as required by law, all taxes of whatsoever kind, nature and description, due and payable with respect to your performance of your obligations under this Agreement, will be paid by you. If you are a tax-exempt entity, you must provide Spark Energy with the necessary certificates and other documentation to qualify for such status. You will incur additional charges for the LDU’s services.

**2. Billing.** Your LDU will continue to issue a monthly bill and the bill will include both your Transmission Charge and your Commodity Charge, and any other charges incurred in accordance with this Agreement. Bills will continue to be based on actual or estimated meter readings. Unless otherwise provided herein, your payment terms and late payment penalties will be governed by the terms of the LDU’s tariff. Spark Energy does not pay or arrange for the payment of any outstanding debts owed by you to the LDU or a previous Competitive Retail Natural Gas Supplier “CRNGS”. You may request, free of charge, from Spark Energy up to twenty-four months of your payment history for services rendered by Spark Energy.

**3. Length of Agreement (Term).** The Term of this Agreement is shown on your Welcome Letter. With the exception of a new meter installation or special meter reading date, you will buy your natural gas service for the service addresses set forth in your Welcome Letter or Natural Gas Service Agreement from Spark Energy on the next regularly scheduled meter reading date available and will continue to do so for the entire Term. This Agreement shall remain in effect until you notify Spark Energy in writing or by phone of your intent to cancel at least 30 days prior to your requested end date and until such time as the LDU completes the termination in accordance with its rules.

#### 4. Penalties, Fees and Exceptions.

**You may be assessed an early termination fee if you cancel or terminate this Agreement prior to the end of the Term. If an early termination fee is applicable, the amount of the early termination fee will be specified in your Welcome Letter or Natural Gas Service Agreement.**

You have may terminate this agreement without penalty in the event you relocate outside the service territory of your LDU or within the service territory of an LDU that does not permit portability of the agreement. Notwithstanding the foregoing, this agreement automatically terminates if any of the following occurs: (1) your requested service location is not served by your previous LDU; (2) you move outside the your LDU's service area or to an area not served by Spark Energy; or (3) Spark Energy returns you to your LDU's default sales service, pursuant to your violation of the terms and conditions stated herein. You will be responsible for amounts due, up to the switch date, of all outstanding charges incurred prior to cancellation by you.

If you default in the prompt payment of amounts due under this Agreement, you will be liable for any and all fees or charges, including reasonable attorney fees and court costs, incurred in connection with the collection of delinquent balances. Spark Energy may use the services of debt collection agencies, consumer reporting agencies, and other remedies as allowed by law to collect any unpaid balances on your account.

**5. Cancellation Provisions.** You may cancel this Agreement without any penalty any time before midnight of the seventh business day after you receive the LDU's confirmation notice. After such seventh business day, you may cancel this Agreement at any time by contacting your LDU, but you will be required to pay the early termination fee described in Section 4 above, if applicable. If you request to cancel this Agreement, the cancellation will not take effect until the next actual meter read date following the date Spark Energy notifies your LDU. You will be responsible for all payments due hereunder until the cancellation of natural gas service is completed. This Agreement may be cancelled at the sole discretion of Spark Energy if you fail to meet any of the terms and conditions of this Agreement or if any of the information you have provided to Spark Energy is or becomes untrue. If this Agreement is canceled, expires, or otherwise terminated, you will receive uninterrupted service from the LDU until you designate another provider of natural gas service or service is shut off by the LDU. Only the LDU may shut off your natural gas service. Switching fees may apply to you under your current natural gas LDU's tariff.

**6. Agreement Expiration/Change in Terms.** If you have a fixed term agreement with us and it is approaching the expiration date, or if we propose changes to our terms of service, Spark Energy may send you two notices offering to renew our agreement under the same or different conditions. You will receive the first notice at least 45 and not more than 90 days prior to the termination date of our agreement and the second notice no less than 35 days prior to the termination date of our agreement.

After notifying you of an approaching expiration, we will follow your instructions. If you do not respond to any of the notices, the price for natural gas service automatically continues at a variable market rate.

**7. Information Release and Authorization.** You designate Spark Energy as your authorized agent and hereby authorize Spark Energy to obtain historical usage, billing and payment history, and credit history. Acceptance of this Agreement is an authorization for the release of the information. Your social security number and/or account number(s) will not be released without your affirmative written consent except where such release is required by court order or by PUCO order or rule. You also hereby authorize Spark Energy to arrange delivery and other services for the purpose of serving your account. This authorization will remain in effect during the Term and any renewal term of this Agreement. You may rescind your authorization at any time by providing written notice thereof to Spark Energy.

**8. Dispute Procedures.** Contact us by any of the means provided at the bottom of these Terms and Conditions with any questions concerning our terms of service or your bill. If your complaint is not resolved after you have contacted Spark Energy or for general utility information, residential and business customers may contact the Public Utilities Commission of Ohio for assistance at 1-800-686-7826 (toll free) or for TTY at 1-800-686-1570 (toll free) from 8:00 a.m. to 5:00 p.m. weekdays, or at [www.puco.ohio.gov](http://www.puco.ohio.gov).

**9. Warranties.** SPARK ENERGY MAKES NO REPRESENTATIONS OR WARRANTIES, EITHER EXPRESSED OR IMPLIED, WITH REGARD TO THE PROVISION OF NATURAL GAS SERVICE AND DISCLAIMS ANY AND ALL WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR ARISING OUT OF ANY COURSE OF DEALING OR USAGE OF TRADE.

**10. Limitation of Liability.** You will be deemed to be in exclusive control (and responsible for any damages or injury caused thereby) of the natural gas after receipt at the delivery point or points. SPARK ENERGY WILL NOT BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, SPECIAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES (INCLUDING LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES), WHETHER BY STATUTE, IN CONTRACT OR TORT, EVEN IF THE RESULT OF NEGLIGENCE (WHETHER SOLE, JOINT, CONCURRENT, ACTIVE OR PASSIVE). ALL OTHER LIABILITY WILL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY, AND SUCH DIRECT ACTUAL DAMAGES WILL BE THE SOLE AND EXCLUSIVE REMEDY. YOU HEREBY WAIVE ALL OTHER REMEDIES AT LAW OR IN EQUITY. THERE ARE NO THIRD PARTY BENEFICIARIES TO THIS AGREEMENT. To the extent any damages required to be paid hereunder are liquidated, the parties acknowledge that the damages are not intended and shall not be construed as a penalty, such damages are difficult or impossible to determine, that otherwise obtaining an adequate remedy is inconvenient or impossible, and that the liquidated damages constitute a reasonable approximation of the harm or loss.

**11. Mandatory Arbitration.** Any claim, dispute or controversy, regarding any contract, tort, statute, or otherwise ("Claim"), arising out of or relating to this agreement or the relationships among the parties hereto shall be resolved by one arbitrator

through binding arbitration administered by the American Arbitration Association (“AAA”), under the AAA Commercial or Consumer rules, as applicable, in effect at the time the Claim is filed (“AAA Rules”). Copies of the AAA Rules and forms can be located at [www.adr.org](http://www.adr.org), or by calling 1-800-778-7879. The arbitrator’s decision shall be final, binding, and non-appealable. Judgment upon the award may be entered and enforced in any court having jurisdiction. This clause is made pursuant to a transaction involving interstate commerce and shall be governed by the Federal Arbitration Act. Neither party shall sue the other party other than as provided herein or for enforcement of this clause or of the arbitrator’s award; any such suit may be brought only in Federal District Court for the District, or if any such court lacks jurisdiction, in any state court that has jurisdiction. The arbitrator, and not any federal, state or local court, shall have exclusive authority to resolve any dispute relating to the interpretation, applicability, unconscionability, arbitrability, enforceability or formation of this Agreement including any claim that all or any part of the Agreement is void or voidable. However, the preceding sentence shall not apply to the clause entitled “Class Action Waiver”.

**12. Class action Waiver.** Any Claim must be brought in the parties’ individual capacity, and not as a plaintiff or class member in any purported class, collective, representative, multiple plaintiff, or similar proceeding (“Class Action”). The parties expressly waive any ability to maintain any Class Action in any forum. The arbitrator shall not have authority to combine or aggregate similar claims or conduct any Class Action nor make an award to any entity or person not a party to the arbitration. Any claim that all or part of this Class Action Waiver is unenforceable, unconscionable, void, or voidable may be determined only by a court of competent jurisdiction and not by an arbitrator. **THE PARTIES UNDERSTAND THAT THEY WOULD HAVE HAD A RIGHT TO LITIGATE THROUGH A COURT, TO HAVE A JUDGE OR JURY DECIDE THEIR CASE AND TO BE PARTY TO A CLASS OR REPRESENTATIVE ACTION, HOWEVER, THEY UNDERSTAND AND CHOOSE TO HAVE ANY CLAIMS DECIDED INDIVIDUALLY, THROUGH ARBITRATION.**

**13. Miscellaneous.**

(a) The services provided by Spark Energy are governed by the terms and conditions of this document and the LDU’s tariff. In the event of non-payment of any charges owed to Spark Energy, you may be subject to termination of natural gas service and the suspension of distribution service under procedures approved by the Public Utility Commission of Ohio. You may obtain additional information by contacting Spark Energy or the LDU by the means provided at the bottom of these Terms of Service.

(b) If Spark Energy is rendered unable to perform, in whole or in part, by a Force Majeure event, its performance under this Agreement will be excused for the duration of such event. “Force Majeure” means any act or event that is beyond the reasonable control of Spark Energy that adversely affects, interrupts, or precludes its performance. In addition, acts of other parties, including without limitation, wholesale suppliers, aggregators, other CRNGSs, qualified scheduling entities, LDUs, any governmental authority, and the respective employees and agents of such parties, will also be deemed to be events of Force Majeure.

(c) Energy delivery shall continue to be provided by your LDU. Your natural gas service will be provided in accordance with your existing connection requirements unless you request a change by the LDU and pay for the cost of that change. You may not resell or use any natural gas provided under this Agreement as an auxiliary or supplement to any other source of power. The supply of natural gas under this Agreement will be measured at the delivery point by the LDU providing the delivery service in accordance with the terms of the applicable tariff for natural gas service. Spark Energy and you will be bound by the measurement from the meters owned, installed, maintained and read by the LDU.

(d) This Agreement will be governed by, interpreted, construed and enforced in accordance with the laws of the State of Ohio, without regard to principles of conflicts of laws.

(e) A wet or faxed signature on a Natural Gas Service Agreement is an agreement to initiate service and begin enrollment with Spark Energy. These Terms of Service, along with your Welcome Letter or Natural Gas Service Agreement, constitute the entire agreement between you and Spark Energy relating to the subject matter hereof and supersede any other agreements, written or oral, between you and Spark Energy concerning the subject matter of the Agreement.

(f) You may not assign this Agreement or your obligations under this Agreement without Spark Energy’s prior written consent. Spark Energy may assign this Agreement, together with all rights and obligations hereunder, to (i) Spark Energy’s natural gas supplier, or such supplier’s designee, (ii) an affiliate of Spark Energy or to any other person succeeding to all or substantially all of Spark Energy’s assets, or (iii) in connection with any financing or other financial arrangement.

(g) Any failure by Spark Energy to enforce any term or condition of your natural gas service or otherwise exercise any right it may have under this Agreement will not be deemed a waiver of any rights to thereafter enforce any or all of the terms or conditions of your service or to exercise rights under this Agreement.

(h) Should any provision of this Agreement for any reason be declared invalid or unenforceable by final and applicable order by a court or any regulatory body having jurisdiction, such decisions shall not affect the validity of the remaining portions, and the remaining portions shall remain in effect as if this Agreement had been agreed to without the invalid portion. If any provision of this Agreement is declared invalid, the remainder of this Agreement will be construed so as to give effect to its original intent and effect as near as possible.

(i) The provisions of this Agreement concerning payment, limitation of liability, waivers, arbitration and waiver of class actions will survive the termination or expiration of this Agreement.

**14. Contact Information.** In the event of an after-hours emergency, you can contact Spark Energy to hear a recorded message containing the emergency contact numbers for your LDU.

Energy Services Company:

**Spark Energy Gas, LLC**  
**2105 CityWest Boulevard, Suite 100**  
**Houston, TX 77042**  
**1-877-54 SPARK (77275)**  
**www.sparkenergy.com**  
**Hours of Operation: Monday through Friday (except holidays), 7:00 a.m. to 7:00 p.m., and Saturday, 9:00 a.m. to 4:00 p.m. Central Time**

Local Distribution Utility

Dominion East Ohio  
P.O. Box 5759  
Cleveland, OH 44101-0759  
1-800-362-7557  
[www.dom.com](http://www.dom.com)

In the case of a gas emergency, call:

1-877-542-2630

Public Service Commission:

Public Utility Commission of Ohio  
180 E. Broad St.  
Columbus, OH 43215  
(800) 686-PUCO (7826)  
(800) 686-1570 (TTY-TDD)  
[www.puco.ohio.gov](http://www.puco.ohio.gov)

Residential customers may also contact the Ohio Consumers' Counsel for assistance with complaints and utility issues at 1-877-742-5622 (toll free) from 8:00 a.m. to 5:00 p.m. weekdays, or at [www.pickocc.org](http://www.pickocc.org).