

THIS AGREEMENT, made and entered into this 1st day of Octo. 1970 by and between WESTERN KENTUCKY GAS COMPANY, a Delaware Corporation Of Owensboro, Kentucky, hereinafter referred to as "SELLER", and GRINNELL CORPORATION, a Delaware Corporation of P. O. Box 647 - Princeton, Kentucky, hereinafter referred to as "BUYER". 42445

WHEREAS, the Seller owns and operates a natural gas transmission and distribution system, used in the transportation and sale of natural gas, and has available certain quantities of natural gas which Seller desires to sell and deliver to Buyer for industrial purposes, but not for resale, and Buyer desires to purchase from Seller certain quantities of natural gas for use in Buyer's plant.

NOW THEREFORE, in consideration of the mutual covenants and agreements of the parties hereto, as herein set forth, the parties hereto covenant and agree as follows:

1. Seller agrees to sell and deliver to Buyer, and Buyer agrees to receive, purchase, and pay for, natural gas for the industrial fuel requirements as hereinafter specified, subject to the provisions of the Rate Schedule of Large Industrial Rate 4, and the terms and conditions hereinafter set forth.

## 2. RATES

Buyer agrees to pay Seller at the following rate, or rates, and on the basis as specified, for all gas received and purchased:

- (a) High Priority Service ..... 51.3 ..... ¢ per Mcf for all gas used in this classification.
- (b) Interruptible Service ..... 40.5 ..... ¢ per Mcf for all gas used in this classification.

- (c) The rates as specified above shall be subject to a *Purchased Gas Adjustment Clause* as follows:

In the event Seller's supplier increases or decreases the rates payable by Seller, the above rates shall be subject to revision to any Buyer whose gas is served from such supplier by the amount of such increase or decrease, effective the date of such change from the supplier. Any revision in the supplier's Demand Charge shall apply only to the High Priority Service rate; any revision in the supplier's commodity charge shall apply to both the High Priority and Interruptible service rate.

- (d) In addition to the regular monthly billing for the gas delivered, Buyer agrees to pay any applicable deficiency due under the *Minimum Annual Bill* requirements, and for any applicable amount to cover any *Penalty for Unauthorized Overrun* as included herein and in the Rate Schedule.
- (e) Buyer also agrees to pay, in addition to the specified price for gas, any applicable production, severance, sales or excise tax with respect to natural gas which is imposed by any governmental agency and which the Seller has to pay.
- (f) In the event the amount of an increase in the price of gas under the *Purchased Gas Adjustment Clause* or an increase due to any applicable taxes, in the judgement of Buyer, shall operate to make the price of gas prohibitive, then Buyer shall have the right and privilege of cancelling and terminating this contract and thereupon all obligations and liabilities of the parties hereunder shall cease, provided that such cancellation and termination shall not affect Buyer's obligation to pay for all gas delivered by Seller including any additional payments or penalties that may be applicable.

## 3. DELIVERY VOLUMES

- (a) The volume of gas to be sold and purchased under this contract shall be established separately for each class of service, on a daily basis, and Buyer shall specify in advance the maximum volume desired.
- (b) High Priority Service:  
The volume for High Priority service shall be established on a High Priority Daily Contract Demand basis which shall be the specific volume Seller is obligated to deliver and Buyer is obligated to receive in any one day, subject to other provisions of this contract.
- (c) Interruptible Service:  
The volume for Interruptible service shall be established on an Interruptible Daily Contract Demand basis which shall be the maximum daily volume Seller is obligated to deliver and which Buyer may receive, subject to other provisions of this contract.

(d) Revision of Delivery Volumes:

The Daily Contract Demand for High Priority and Interruptible service shall be subject to revision as necessary so as to coincide with the Buyer's normal operating conditions and actual load with consideration given to any anticipated changes in Buyer's utilization, subject to Seller's contractual obligations with other customers, or its supplier, and subject to availability of the gas if an increased volume is involved.

(e) Initial Daily Contract Demand:

(i) High Priority Service .....	250	Mcf
(ii) Interruptible Service .....	550	Mcf
(iii) Total .....	800	Mcf

4. QUALIFICATION

(a) This contract is applicable only to a Buyer who actually requires and uses a minimum of 500 Mcf per day for base load purposes, and Buyer understands and agrees that this contract is subject to cancellation by Seller, if for any reason, Buyer fails to comply with this minimum requirement.

(b) In the event of cancellation of this contract for this reason, Buyer agrees that all gas delivered thereafter shall be billed to it at the lowest available approved rate for which Buyer qualifies, or if Buyer elects, it may discontinue the use of gas entirely, provided that such change to another rate schedule or discontinuance of the use of gas shall not affect Buyer's obligation to pay for all gas delivered by Seller including any additional payments or penalties that may be applicable.

5. UTILIZATION

This contract shall apply only to the utilization, volume, and location specified as follows:

(a) Utilization: Process Application

(b) Maximum Hourly Demand ..... 50 ..... Mcf

(c) Initial Total Daily Contract Demand ..... 800 ..... Mcf

(d) Maximum Daily Utilization: The maximum daily utilization shall be limited by Buyer to the total Daily Contract Demand except when, on a temporary basis, a greater quantity is specifically approved in advance by Seller.

(e) Maximum Delivery Pressure ..... five (5) ..... Pounds

(f) Location ..... Highway 128 South of Princeton, Kentucky ..... 42515 .....

6. MINIMUM ANNUAL BILL

A Minimum Annual Bill shall apply to each class of service which will be computed as follows:

(a) High Priority Service:

An amount equivalent to the product of 80% of the Daily Contract Demand times the number of Buyer's normal days of gas utilization in the year times the rate per Mcf, less an allowance for any time that gas was not available.

This allowance shall be computed on a basis of the Daily Contract Demand times the number of days or fraction thereof on which gas was not available.

This Minimum Annual Bill is not subject to being waived, except at Seller's sole discretion, and without obligation.

(b) Interruptible Service:

An amount equivalent to the product of 25% of the Daily Contract Demand times the number of Buyer's normal days of gas utilization in the year times the rate per Mcf, less an allowance for any time that gas was not available.

This allowance shall be computed on a basis of the Daily Contract Demand times the number of days, or fraction thereof, on which gas was not available.

This Annual Minimum Bill may be waived, at Seller's sole discretion, and without obligation, in the event the failure by Buyer to use the minimum quantity did not in any way penalize Seller by causing a loss of sales to other industrial or potential industrial customers, or by adversely affecting the Seller's operations or revenues.

## 7. PENALTY FOR UNAUTHORIZED OVERRUN

- (a) In the event Buyer fails, in part or in whole, to comply with Seller's curtailment order as to time, duration or volume of gas used, or uses a greater quantity of gas than its Daily Contract Demand, or a quantity in excess of any special temporary authorization, whether a curtailment order is in effect or not, Buyer shall pay for the unauthorized gas so used at the rate of \$32.85 per Mcf, which rate shall be revised to reflect any increase or decrease in the Demand Charge which Seller pays its supplier.
- (b) In addition to this penalty payment for the use of unauthorized gas, the regular applicable rate shall be billed by Seller and paid for by Buyer for any and all gas used.
- (c) Also, when Buyer uses any volume of unauthorized gas as specified in Section (a) above, Buyer shall pay, in addition to the specified penalty for Demand Charges, any special penalty which Seller has to pay its supplier by reason of such unauthorized use.
- (d) The payments as specified above shall be assessed against and paid by Buyer only in the event Seller has to pay increased Demand Charges and/or a special penalty to its supplier, by reason of the Buyer's unauthorized use or overrun as specified in Section (a) above.
- (e) Any payment by Buyer of the penalty for Demand Charges or of the special penalty payment shall not be deemed as giving Buyer any right to use any gas to which it is not otherwise specifically entitled to use under this contract, nor shall any such payment serve or tend to relieve Buyer of any other obligations resulting from its using any unauthorized or excess gas at any time, or from its failure to comply fully with such or other curtailment orders which may be in effect in the future.

## 8. BILLING AND PAYMENT

- (a) Seller will render a statement to Buyer on or before the tenth (10th) day of each calendar month covering the gas delivered hereunder during the preceding month, and Buyer shall make payment in full on or before the twentieth (20th) day of the month in which the statement is rendered.
- (b) Any applicable *Minimum Annual Bill* or deficiency thereunder, will be billed by Seller as of the ending month of the year with statement rendered to Buyer on or before the tenth (10th) day of the month following the year end and Buyer shall make payment in full on or before the twentieth (20th) day of the month in which the statement is rendered.
- (c) Any applicable *Penalty for Unauthorized Overrun* will be billed by Seller with the regular bill for the month in which the unauthorized overrun occurred, provided the necessary billing data is available, otherwise, it will be billed with the regular bill for the following month and Buyer shall make payment in full on or before the twentieth (20th) day of the month in which the statement is rendered.
- (d) If Buyer shall fail to pay any bill for gas delivered, for any deficiency payment under the *Annual Minimum Bill* or for any *Penalty for Unauthorized Overrun* within the time herein provided, Seller, in addition to any other remedy it may have, may, if Buyer thereafter fails to pay on written demand, at its option cancel and terminate this contract, provided that such cancellation and termination shall not affect Buyer's obligation to pay for all gas theretofore delivered and for any other obligations due under this contract.

## 9. CURTAILMENTS

### (a) High Priority Service:

Seller, at its sole discretion, shall have the right at any time without liability to Buyer to curtail or to discontinue the delivery of gas entirely to Buyer for any period of time when such curtailment or discontinuance is, or appears to be, necessary to protect the requirements of domestic and commercial customers; to comply with any restriction or curtailment as may be imposed by any governmental agency having jurisdiction over Seller or its supplier, or to comply with any restriction or curtailment as may be imposed by Seller's supplier; to protect and assure the operation of Seller's underground storage system; or for any causes due to *force majeure* (which includes acts of God, strikes, lockouts, civil commotion, riots, epidemics, landslides, lightning, earthquakes, fires, storms, floods, etc.); so that Seller may maintain the operating efficiency of its system in a safe and orderly manner.

### (b) Interruptible Service:

In addition to the reasons listed above under *High Priority Service*, Seller shall have the right, at its sole discretion, to curtail or to discontinue the delivery of interruptible gas entirely to the Buyer in order to avoid an increase in Demand Charges in Seller's gas purchases from its supplier, to avoid excessive peak load and demands upon the gas transmission and distribution system, and for any other necessary or expedient reason, at the discretion of Seller.

- (c) Seller will curtail or interrupt High Priority or Interruptible service on an equitable basis as is practicable, using its best judgment and taking into consideration its operations and related factors and the operations and gas utilization of the Buyer or Buyers affected.

#### 10. STANDBY OR AUXILIARY EQUIPMENT AND FUEL

It shall be the responsibility of Buyer to provide and maintain at all times such adequate standby, auxiliary equipment and fuel as may be required or necessary to protect its fuel requirements and best interests, and to assure its continuous operations, with the interruptible terms and conditions of this contract being duly considered.

#### 11. POINT OF DELIVERY

- (a) The point of delivery of all gas delivered hereunder shall be on the outlet side of Seller's measuring station at the point of connection between the facilities of Seller with those of Buyer, and Seller shall be in possession and control of the gas delivered hereunder and responsible for any damage or injury caused thereby until the gas shall have been delivered to Buyer at the point of delivery, after which Buyer shall be deemed to be in possession and control thereof and responsible for any injury or damage caused thereby.
- (b) Each party shall indemnify and save harmless the other party on account of any and all damages, claims or actions arising out of the operation or maintenance of the property or equipment of the indemnifying party, the point of delivery as hereinbefore specified to be the point of division of responsibility between the parties.

#### 12. QUALITY

- (a) The gas delivered hereunder shall be commercially free from objectionable dust or other solid, liquid or gaseous matters which might interfere with its merchantability or utilization.
- (b) The annual average total heating value of the gas delivered hereunder shall be approximately 1,000 Btu's per cubic foot and shall vary only with Seller's supply. If the annual average is below 990 Btu's a credit of 1% for each 10 Btu's of deficiency below 990 Btu's shall be applied to Buyer's billing.
- (c) The total heating value of the gas delivered hereunder shall be determined by a recording calorimeter located at Seller's supplier's facilities, or at such other place as may be available and more practicable in the circumstance.

#### 13. MEASUREMENT

- (a) The sales unit of the gas delivered hereunder shall be 1,000 cubic feet (Mcf) measured according to Boyle's Law for the measurement of gas under pressure with deviations therefrom in accordance with standard methods.
- (b) The deviations of the gas from Boyle's Law, at the pressures under which said gas is delivered hereunder, shall be determined by standard methods.
- (c) The unit of volume for the purpose of measurement shall be one cubic foot of gas at a temperature of 60 degrees Fahrenheit and at a pressure of 14.65 pounds per square inch absolute.
- (d) The average absolute atmospheric (barometric) pressure shall be assumed to be 14.4 pounds per square inch, irrespective of actual elevation or location of the point of delivery above sea level, or variations in such atmospheric pressure from time to time.
- (e) The temperature of the gas flowing through the meters shall be assumed to be 60 degrees Fahrenheit, provided, however, Seller may, at its option, install a recording thermometer to record the actual flowing temperature of the gas through the meter. Where such installation is provided, the arithmetic average of the temperature recorded shall be used in computing measurements.
- (f) The specific gravity and relative humidity of the gas delivered hereunder shall be determined by standard methods.

#### 14. MEASURING EQUIPMENT

- (a) The Seller will install, operate and maintain the necessary regulating and metering equipment of suitable capacity and design to regulate and measure the gas deliveries as specified herein. Suitable site or location for the regulating and metering equipment is to be provided by the Buyer, and the title to this equipment

equipment as may be necessary for satisfactory operation and utilization.

- (b) The accuracy of Seller's measuring equipment shall be verified by Seller at reasonable intervals, and whenever requested by Buyer, but Seller shall not be required to verify the accuracy of such equipment more frequently than once in any 30 day period.
- (c) Buyer shall have the right to be present at the time of any installing, reading, cleaning, changing, repairing, inspecting, calibrating or adjusting done in connection with Seller's measuring equipment used in measuring deliveries hereunder. The records from such measuring equipment shall remain the property of the Seller, but upon Buyer's request, Seller will submit such records and charts, together with calculations therefrom, for Buyer's inspection and verification, subject to return within 10 days after receipt thereof.
- (d) If, upon test, any measuring equipment is found to be not more than 2% fast or slow, previous recordings of such equipment shall be considered correct in computing the volume of gas delivered hereunder, but such equipment shall be adjusted properly at once to record accurately. If, upon test, any measuring equipment is found to be inaccurate by an amount exceeding 2%, at a recording corresponding to the average hourly rate of flow for the period since the last preceding test, then any previous recordings shall be corrected to zero error, for any period which is known definitely or agreed upon, but, in no case shall any correction be made for a period exceeding one half (1/2) of the time elapsed since the date of the last test.

15. SUBJECT TO REGULATION

This contract shall be subject to the valid laws, orders, rules and regulations of all duly constituted authorities having jurisdiction over either or both Seller and Buyer.

16. TERM OF CONTRACT

- (a) This contract shall apply to and be binding upon the successors and assigns of both Seller and Buyer and shall remain in full force and effect for a period of one (1) year from date of first gas deliveries, and thereafter until cancelled by either Seller or Buyer, as hereinafter provided.
- (b) After the expiration of the original term as specified, either Seller or Buyer may cancel this contract by giving notice in writing to the other party of its intention so to do 90 days in advance of the time that such cancellation shall become effective.
- (c) This contract supersedes and cancels all previous contracts and agreements between the parties hereto, with respect to the subject matter hereof, and is intended to include all the terms and conditions contemplated by the parties hereto with respect to such subject matter.

17. NOTICES

- (a) Any notice, statement or bill provided for in this contract or any notice which either party may desire to give the other party shall be in writing and shall be considered as being duly delivered when mailed, by either registered or ordinary mail, to the post office of either of the parties hereto, as the case may be, as follows:

Seller: Western Kentucky Gas Company  
 P. O. Box 526  
 608 Frederica Street  
 Owensboro, Kentucky

Buyer: The Grinnell Corporation  
P. O. Box 647  
Princeton, Kentucky 42445

- (b) Either party may change its address under this provision by notice to the other party.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed in duplicate by their proper officers, thereunto duly authorized, and attested by their respective Secretaries or Assistant Secretaries and their respective corporate seals to be hereto affixed, as of the day and year above written.

ATTEST: Raymond E. Miller

WESTERN KENTUCKY GAS COMPANY  
[Signature]  
 Vice President (SELLER)

[Signature]

[Signature] 10-27-70  
 By THE GRINNELL CORPORATION  
 (BUYER)