

CITY COMMISSION MEETING AGENDA

City Hall Commission Chambers

Tuesday January 16, 7:00 p.m.

MEETING #5089

CALL TO ORDER

ROLL CALL

ELECTION OF MAYOR AND VICE MAYOR

INVOCATION BY Pastor Corky Spitler of Christ the King Lutheran Church

PLEDGE OF ALLEGIANCE

PETITIONS & PROCLAMATIONS

VISITORS (Limit of five minutes per individual and fifteen minutes per topic. Final action may be deferred until the next City Commission meeting unless an emergency situation does exist).

CONSENT CALENDAR

1. Approval of City Commission Meeting Minutes, January 2, 2018;
2. Approval of Special City Commission Meeting Minutes, January 8, 2018;
3. Appropriation Ordinance No. 2; January 16, 2018;
4. Cereal Malt Beverage License:
 - a. Taylor's Road House, LLC. 2305 W. Wyatt Earp Blvd.;
 - b. Water Sports Campground, 500 Cherry Street;
5. Approval of Change Order No. 1 for 2017 Curb, Gutter & Sidewalk Program;
6. Approval of the Contract with Boutique Air;
7. Approval of Addendum to City Manager Contract.

ORDINANCES & RESOLUTIONS

UNFINISHED BUSINESS

NEW BUSINESS

1. Approval of NAESB Base Agreement and Confirmation for the Sale of RNG from Dodge City to OCI Fuels Limited. Report by City Manager, Cherise Tieben.
2. Approval of Legislative Policy. Report by City Manager, Cherise Tieben.

OTHER BUSINESS

ADJOURNMENT

CITY COMMISSION MEETING MINUTES

City Hall Commission Chambers

Tuesday, January 2, 2018

7:00 p.m.

MEETING #5087

CALL TO ORDER

ROLL CALL: Mayor Rick Sowers, Commissioners, Kent Smoll, Jan Scoggins, and Brian Delzeit. Commissioner Joyce Warshaw was reported absent.

INVOCATION by Pastor Corky Spitler of Christ the King Lutheran Church

PLEDGE OF ALLEGIANCE

PETITIONS & PROCLAMATIONS

VISITORS (Limit of five minutes per individual and fifteen minutes per topic. Final action may be deferred until the next City Commission meeting unless an emergency situation does exist).

CONSENT CALENDAR

1. Approval of City Commission Special Meeting Minutes, December 18, 2017;
2. Approval of City Commission Meeting Minutes, December 18, 2017;
3. Approval of City Commission Special Meeting Minutes, December 28, 2017;
4. Appropriation Ordinance No. 1, January 2, 2018;
5. Approval of Change Order No. 2 of Heritage District Parking Lot Improvements.

Commissioner Brian Delzeit moved to approve the Consent Calendar as presented; Commissioner Jan Scoggins seconded the motion. The motion carried unanimously.

ORDINANCES & RESOLUTIONS

NEW BUSINESS

1. Commissioner Kent Smoll moved to approve the Consulting Agreement for the Design of a Sampling Basin and Force Main with Professional Engineering Consultants in the amount of \$168,900. This contract will only be authorized up to the 60% of design mark (\$34,060) until the agreement with National Beef is signed. Of the Professional Engineering Consultant Contract, 50% will be paid by the City and 50% by National

Beef. The construction of this project will also be split 50% between the City and National Beef. Commissioner Jan Scoggins seconded the motion. The motion carried 4-0.

2. Commissioner Jan Scoggins moved to approve the Audit Engagement Letter for Years Ending December 31, 2017 and December 31, 2018 with Kennedy McKee & Co. in the amount of \$46,850 plus \$90 per hour for the audit of Federal Financial assistance program. Commissioner Kent Smoll seconded the motion. The motion carried 4-0.
3. Commissioner Jan Scoggins moved to approve the Bio-Gas Contract for Sale and Purchase of Natural Gas with World Fuel Services, Inc. This contract will pay daily spot prices for the natural gas. The contract will be for the period of time until EPA certifications are in place. Commissioner Brian Delzeit seconded the motion. The motion carried 4-0.

OTHER BUSINESS

City Manager Cherise Tieben

- Thanks for taking the time attending the meeting after the New Year's holiday
- Boutique Air started air service this week at the Dodge City Regional Airport
- There will be a City Commission meeting on January 8 at 5:30 to swear in the City Commissioners. We will also have an executive session at that meeting.
- The following City Commission will be held Tuesday, January 16, 2018.

Abbey Martin, Public Information Specialist

- A press release was sent out regarding open Board and Commission positions. Applications are currently being accepted and the City Commission will make those appointments at the first meeting in February.

Commissioner Kent Smoll

- Hopes everyone had a safe Holiday

Commissioner Jan Scoggins

- Thanks the Dodge City Daily Globe for the annual calendar featuring artists' pictures. Encourages citizens to subscribe to the Dodge City Daily Globe.
- There is a super moon.

Commissioner Brian Delzeit

- Happy New Year
- 2018 will be an awesome year in Dodge City. Sutherlands will be constructing their building, Rib Crib will be building and other great things will be happening.

Commissioner Rick Sowers

- Happy New Year

- Reiterated that the City will be taking applications for the Boards and Commissions. This is a way to be involved in the community.

ADJOURNMENT

Commissioner Kent Smoll moved to adjourn the meeting; Commissioner Jan Scoggins seconded the motion. The motion carried 4-0.

Mayor

ATTEST:

City Clerk, Nannette Pogue

SPECIAL CITY COMMISSION MEETING MINUTES

City Hall Commission Chambers

Monday, January 8, 2018

5:30 p.m.

Meeting 5088

CALL TO ORDER

INSTALLATION OF CITY COMMISSIONERS

Brian Delzeit, Joyce Warshaw, Kent Smoll were all sworn in as City Commissioners

ROLL CALL: Mayor Rick Sowers, Commissioners Kent Smoll, Jan Scoggins, Brian Delzeit, and Joyce Warshaw

NEW BUSINESS

Commissioner Jan Scoggins moved to approve the quote from Utility Contractors, Inc. (UCI) in the amount of \$219,411 for 2-Gas Chromatographs for the Bio-Gas Upgrading Facility. Commissioner Brian Delzeit seconded the motion. The motion carried unanimously.

EXECUTIVE SESSION

At 5:40 p.m., Commissioner Kent Smoll moved to recess into executive session pursuant to the “employer-employee negotiations” exception found in K.S.A. 75-4319(b)(3) not to exceed 20 minutes. The justification for closing the meeting is to protect the privacies of the entities to be discussed. The executive session will include the City Manager, City Attorney, Chief of Police, Assistant to the City Manager/Human Resources, Assistant Finance Director and Finance Director. Commissioner Brian Delzeit seconded the motion. The motion carried unanimously.

The Regular Meeting resumed at 6:00 p.m.

EXECUTIVE SESSION

At 6:02 Commissioner Brian Delzeit moved to recess into executive session pursuant to the “personnel matters of nonelected personnel” exception found in K.S.A. 75-4319(b)(1). The justification for closing the meeting is to protect the privacies of the individuals to be discussed. The meeting will resume in the City Commission Chamber in 30 minutes at 6:32 p.m. Commissioner Kent Smoll seconded the motion. The motion carried unanimously.

At 6:32, Commissioner Kent Smoll moved to extend the City Commission meeting by 10 minutes. Commissioner Joyce Warshaw seconded the motion. The motion carried unanimously.

The Regular Meeting resumed at 6:42.

ADJOURNMENT

Commissioner Jan Scoggins moved to adjourn the meeting. Commissioner Joyce Warshaw seconded the motion. The motion carried unanimously.

ATTEST:

Mayor

Nannette Pogue, City Clerk

**INDIVIDUAL/SOLE PROPRIETOR
APPLICATION FOR LICENSE TO SELL CEREAL MALT BEVERAGES**

(This form has been prepared by the Attorney General's Office)

City or County of Dodge City

SECTION 1 - LICENSE TYPE			
Check One: <input type="checkbox"/> New License <input checked="" type="checkbox"/> Renew License <input type="checkbox"/> Special Event Permit			
Check One: <input type="checkbox"/> License to sell cereal malt beverages for consumption on the premises. <input checked="" type="checkbox"/> License to sell cereal malt beverages in original and unopened containers and not for consumption on the licenses premises.			
SECTION 2 - APPLICANT INFORMATION			
Kansas Sales Tax Registration Number (required): <u>004 461660769 F01</u>			
I have registered as an Alcohol Dealer with the TTB. <input checked="" type="checkbox"/> Yes (required for new application)			
Name <u>Charles R Taylor Jr.</u>		Phone No. <u>620 338-3881</u>	Date of Birth <u>8-1-64</u>
Residence Street Address <u>111 McCaustland Rd</u>		City <u>Dodge City KS</u>	Zip Code <u>67801</u>
Applicant Spousal Information			
Spouse Name <u>Ann Taylor</u>		Phone No. <u>620-682-3449</u>	Date of Birth <u>3-5-66</u>
Residence Street Address <u>111 McCaustland Rd</u>		City <u>Dodge City KS</u>	Zip Code <u>67801</u>
SECTION 3 - LICENSED PREMISE			
Licensed Premise (Business Location or Location of Special Event)		Mailing Address (If different from business address)	
DBA Name <u>Taylor's Road house</u>		Name <u>Charles R Taylor</u>	
Business Location Address <u>2305 W. Wyatt Exp</u>		Address <u>P.O. Box 1623</u>	
City <u>Dodge City</u> State <u>KS</u> Zip <u>67801</u>		City <u>Dodge City</u> State <u>KS</u> Zip <u>67801</u>	
Business Phone No. <u>620-371-6866</u>		<input type="checkbox"/> I own the proposed business location. <input checked="" type="checkbox"/> I do not own the proposed business location.	
Business Location Owner Name(s) <u>Charles Taylor</u>			
SECTION 4 - APPLICANT QUALIFICATION			
I am a U.S. Citizen		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
I have been a resident of Kansas for at least one year prior to application.		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
I have resided within the state of Kansas for <u>47</u> years.			
I am at least 21 years old.		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
I have been a resident of this county for at least 6 months.		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
Within 2 years immediately preceding the date of this application, neither I nor my spouse* have been convicted of, released from incarceration for or released from probation or parole for any of the following crimes: (1) Any felony; (2) a crime involving moral turpitude; (3) drunkenness; (4) driving a motor vehicle while under the influence of alcohol (DUI); or (5) violation of any state or federal intoxicating liquor law.		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
My spouse has previously held a CMB license.		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
My spouse has never been convicted of one of the crimes mentioned above while licensed.		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

**INDIVIDUAL/SOLE PROPRIETOR
APPLICATION FOR LICENSE TO SELL CEREAL MALT BEVERAGES**

(This form has been prepared by the Attorney General's Office)

City or County of Dodge City

SECTION 1 - LICENSE TYPE

Check One: New License Renew License Special Event Permit

Check One:

- License to sell cereal malt beverages for consumption on the premises.
 License to sell cereal malt beverages in original and unopened containers and not for consumption on the licenses premises.

SECTION 2 - APPLICANT INFORMATION

Kansas Sales Tax Registration Number (required): 004-480-906-593 F01

I have registered as an Alcohol Dealer with the TTB. Yes (required for new application)

Name <u>Morgison Family - Patricia Brandenburg</u>	Phone No. <u>620-227-8178</u>	Date of Birth <u>1-31-51</u>
Residence Street Address <u>2008 Boley Drive</u>	City <u>Dodge City KS</u>	Zip Code <u>67801</u>

Applicant Spousal Information

Spouse Name <u>Eldon Brandenburg</u>	Phone No. <u>620-227-8178</u>	Date of Birth <u>9-26-50</u>
Residence Street Address <u>2008 Boley Dr</u>	City <u>Dodge City KS</u>	Zip Code <u>67801</u>

SECTION 3 - LICENSED PREMISE

Licensed Premise (Business Location or Location of Special Event)	Mailing Address (If different from business address)
DBA Name <u>WaterSports Campground</u>	Name <u>Morgison Family Patricia Brandenburg</u>
Business Location Address <u>500 Cherry St #</u>	Address <u>2008 Boley Drive</u>
City <u>Dodge City</u> State <u>KS</u> Zip <u>67801</u>	City <u>Dodge City</u> State <u>KS</u> Zip <u>67801</u>
Business Phone No. <u>620-225-8044</u>	<input checked="" type="checkbox"/> I own the proposed business location. <input type="checkbox"/> I do not own the proposed business location.
Business Location Owner Name(s)	

SECTION 4 - APPLICANT QUALIFICATION

I am a U.S. Citizen	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
I have been a resident of Kansas for at least one year prior to application.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
I have resided within the state of Kansas for <u>29</u> years.	
I am at least 21 years old.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
I have been a resident of this county for at least 6 months.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Within 2 years immediately preceding the date of this application, neither I nor my spouse* have been convicted of, released from incarceration for or released from probation or parole for any of the following crimes: (1) Any felony; (2) a crime involving moral turpitude; (3) drunkenness; (4) driving a motor vehicle while under the influence of alcohol (DUI); or (5) violation of any state or federal intoxicating liquor law.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
My spouse has previously held a CMB license.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
My spouse has never been convicted of one of the crimes mentioned above while licensed.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Memorandum

*To: City Manager
City Commissioners*

*From: Ray Slattery, Director of Engineering
Services*

Date: January 3, 2018

*Subject: 2017 Curb, Gutter & Sidewalk Program
(ST 1708)*

Agenda Item: Consent Calendar

Recommendation: Approve Change Order No. 1 for 2017 Curb, Gutter & Sidewalk Program.

Background: 2017 Curb, Gutter & Sidewalk Program was approved on August 21, 2017.

Justification: 4" Concrete Sidewalk – The deletion of 8 S.Y. represents actual measured quantities. A sidewalk panel near the Dodge City Daily Globe was not replaced as shown in the plans. This panel was actually structural concrete and the roof of a vault under the sidewalk at the Daily Globe.

Remove & Replace Curb & Gutter - The deduction of 30 L.F. is from actual as-built measurements. It was decided in the field that more 8" tall curb should be built to possibly prevent water from getting into the adjacent yard.

Remove & Replace Curb & Gutter, 8" - The addition of 30 L.F. is from actual as-built measurements. It was decided in the field that more 8" tall curb should be built to possibly prevent water from getting into the adjacent yard.

Construction Staking – This item was deleted from the contract.

Down Spout Repairs – This item was added to the project. With the removal of sidewalk near the Carnegie Building and Dodge City Daily Globe, it was discovered that a downspout under the sidewalk panel had rusted away. The contractor proposed to fix the downspout. Staff agreed and the result was an increase of \$156.00.

Financial Considerations: Change Order No. 1 is for a decrease of \$506.50.

Purpose/Mission: One of the City's core values in Ongoing Improvements. With the construction of these improvements the City is preparing for the community's future and providing new possibilities for current and future citizens of our community.

Legal Considerations: N/A

Attachments: Change Order No. 1

Memorandum

*To: City Manager
City Commissioners*

From: Corey Keller

Date: January 10, 2018

Subject: Boutique Air Lease Agreement

Agenda Item: Consent Calendar

Recommendation: To enter into agreement to lease Boutique Air office and ramp space at the airport terminal building.

Justification: Attached is the signed lease agreement that Boutique Air agreed to the terms to lease office and ramp space at the airport terminal building for a period of two years. The amount of lease is \$1,200.00 for the office and ramp space and will also include a \$600.00 a month landing fee for a total of \$1,800.00 per month. The lease agreement is very similar to the lease agreement the City and Pen Air had last year.

The lease will become effective as of January 1, 2018 and end on January 1, 2020. Signatures of both parties will activate the lease. Boutique has already agreed to the terms and has sign their portion of the document. The signature of the Mayor and Nannette will complete the process.

Financial Considerations: Boutique Air will pay the City \$1800.00 a month for the two year term.

CITY OF DODGE CITY AIRPORT LEASE WITH BOUTIQUE AIR, INC.

LEASE. This lease is made and entered into by and between the City of Dodge City, Kansas, a municipal corporation (City) and Boutique Air, Inc. (Lessee):

1. PREMISES. The City, in consideration of the rent, agreements and conditions as set forth herein to be paid and performed by Lessee, does hereby lease to the Lessee, subject to the terms and conditions set forth herein, the land and facilities located at the Dodge City Regional Airport as described in Exhibit A, attached hereto and made a part hereof by this reference, and referred to hereinafter as the "Premises."

Boutique Air office rent, ramp space and landing fees
(One Thousand, Two Hundred Dollars (\$1,200.00) office space, ramp rent and
Six Hundred Dollars (\$600.00) landing fee)
One Thousand, Eight Hundred Dollars (\$1,800.00) monthly basic rent includes
utilities, janitorial service, snow removal, maintenance, lawn care, counter space, storage area
and lobby space.

2. RENTAL FEE:

A. The sum of One Thousand, Eight Hundred Dollars (\$1,800.00), is the monthly basic rent and shall commence on January 1, 2018. The first monthly installment of basic rent for the first lease year shall be payable on the 5th day of January, 2018; each succeeding monthly installment shall be due on the 5th day of each month thereafter. Each January, the rental fee will change in proportion to the CPI-U Midwest Urban Cities (Consumer Price Index) of the most recent calendar year of its calculation. Consumer Price Index shall be determined based upon the most recent consumer price index reflected in the Bureau of Labor and Statistics and found at the web link http://data.bls.gov/servlet/SurveyOutputServlet?series_id=CUIURA214SA0.CIUSA214SA0. This change will affect the monthly basic rent for all subsequent years of the lease, including those resulting from any renewals, until its expiration. The City, as a courtesy, will provide written notice of this change at the end of the 1st quarter of each calendar year; however this is not a requirement for the implementation of these annual fee changes.

B. All rent shall be paid, without prior demand, at the City's business office, Dodge City Regional Airport, P.O. Box 880, Dodge City, KS 67801.

3. LATE CHARGES. In the event Lessee has failed to pay the rent and other amounts due to the City, on or before the fifth (5th) day of the month due, the Lessee shall owe, as additional rent, a late charge equal to five percent (5%) of the amount of the monthly payment(s) then due.

4. TERM. This lease commences on January 1, 2018 and expires on January 1, 2020 inclusive, a period of two (2) years. This lease may be extended by mutual agreement of the parties or in compliance with any option for renewal provided in Paragraph 5 of this lease.

5. OPTION TO RENEW:

A. Lessee shall have the option to renew this lease for an additional two (2) year term unless the lease has been terminated as a result of voluntary withdrawal, destruction of premises, or Lessee's default or breach.

B. Lessee shall deliver to the City written notice of its intent to renew at least sixty (60) days prior to the expiration of the original or renewal term then in effect.

Airport Lease Boutique Air, Inc. 2018

C. The monthly basic rent shall be adjusted each year during the renewal term of this lease in proportion to the change in the CPI-U Midwest Urban Cities (Consumer Price Index) over the previous year.

D. Except for rental fee, all agreements and conditions in this lease shall remain in full force and effect for the renewal term unless the parties otherwise agree in writing.

6. ACCEPTANCE OF PREMISES, CONDITION REPORT:

A. Lessee acknowledges it has inspected and noted the condition of Premises and accepts said Premises in their present condition and without representation or warranty by the City and without alterations, repairs or additions thereto.

B. A representative of the City shall inspect the Premises not later than five (5) days after City approval of this lease. The Lessee shall have the right to be present at such inspection. The City will prepare a Condition Report as a result of such inspection, which shall inventory the condition of the premises. The representative of the City and Lessee shall sign the Condition Report and a copy shall be provided to Lessee. Should the Lessee fail or refuse to sign the Report, such fact shall be noted on the Report in lieu of Lessee's signature. This Condition Report will be the basis upon which the City determines whether or not the Premises have been maintained properly under the terms of this lease, and whether or not waste or destruction has occurred. The Condition Report must itemize any personal property on the Premises belonging to the City for which Lessee is responsible.

7. USE OF PREMISES.

A. Lessee shall comply with all Federal, State and Local laws, ordinances and administrative regulations applicable to the Premises and Lessee's use and occupation thereof. Lessee shall also comply with all policies and use restrictions of the City, including subsequent modifications or changes thereto, which are applicable to the Premises, Lessee's use thereof, and all City property.

B. Lessee shall not occupy Premises for any unlawful purpose or for any purpose which constitutes a nuisance, is harmful to, or interferes unreasonably with the rights of any other person including the City and its tenants.

C. Lessee will have roof access of any leased facilities to install microwave antennas, at its own cost, with prior approval from FAA, NOAA and the Airport Manager, which approval is subject to revocation in the event of interference with equipment or services provided by FAA or NOAA.

8. REPAIRS AND MAINTENANCE:

A. Lessee shall make all repairs, whether structural or otherwise, necessary to preserve the Premises in as good of condition as when leased, normal wear and tear accepted, or as otherwise provided for in this lease. The quality of repair work shall be at least equal to that of original construction and in accordance with building codes in affect at the time of such repairs.

B. Lessee shall permit no waste or injury to occur to the Premises, and at all times, shall keep Premises safe and clean and shall comply with all laws and regulations governing care and maintenance of Premises. Lessee shall remove rubbish which may accumulate on Premises, and make every attempt to give Premises a pleasing appearance, all at Lessee's sole expense. Lessee shall not permit materials, supplies or equipment to be stored outside of buildings without the prior written consent of the City.

C. In the event Lessee fails to comply with requirements of this paragraph, the City shall have the option either to treat such failure as a default and breach and terminate this lease as provided in Paragraph 23 or, after giving notice and opportunity to cure such failure as provided in Paragraph 24, the City may perform all repairs and maintenance necessary to cure such failure and add the cost thereof to basic rent due in the month following the date such costs are incurred.

D. Notwithstanding any other provision of this lease, in the event:

1) Lessee fails, in the sole judgment of the City, to take necessary precautions to protect the Premises or personal property thereon from the elements, or the security thereof;

2) Lessee's maintenance or use of the Premises is such that it constitutes a fire hazard or otherwise endangers the Premises, or

3) Lessee's conduct endangers property owned by the City, or persons on the Premises or in adjacent the City property; then the City or its authorized representatives may forthwith come upon the Premises and take all reasonable and necessary steps to correct such danger or condition. The expenses in making such corrections shall be billed to Lessee and shall be due and payable by Lessee to the City the first of the month subsequent to such billing.

E. The requirements for repairs and maintenance required by this Paragraph shall not make Lessee the agent or trustee of the City for any purpose, and the provisions of Paragraph 7 of this lease shall be controlling. Nothing in Paragraph 7 of this lease concerning the use of Premises or in any other provision of this lease shall be construed to create any such agency or trustee relationship.

9. PERMANENT IMPROVEMENTS TO PREMISES:

A. To the extent allowed by the existing budget environment, the City is obligated to rebuild, replace, maintain, repair, improve, enlarge or remodel Premises. At its sole expense, Lessee may make permanent improvements to Premises either by enlarging or remodeling current improvements or constructing new improvements provided the City gives prior approval in writing, and Lessee submits detailed construction and site plan of proposed improvements for the City's final approval prior to commencement of construction. All permanent improvements shall become part of premise and property of the City and shall conform to the following minimum requirements unless specifically waived by the City in writing.

1) Any new buildings or additions to buildings now on premises shall be restricted to commercial, industrial or warehouse use as approved by the City.

2) Outside walls of all new buildings or additions must be of masonry construction, decorative metal or their equivalent.

3) All roofs shall be constructed from fire resistant material.

4) All signage shall comply with the 2000 Dodge City Zoning Ordinance.

5) Lessee shall obtain and pay for all requisite government permit and authorizations related to new construction on premises prior to commencement thereof; Lessee shall comply with applicable building a zoning laws and ordinances and other government regulations and requirements.

6) All construction shall be prosecuted to completion with diligence in a workmanlike manner.

B. Permanent improvements shall be defined as all improvements which attach either to the Premises or any improvements thereon including, without limitation, all structural and nonstructural improvements, plumbing and electrical equipment and fixtures and all property including fixtures, equipment and personal property which cannot be removed without undue damage to premises or which would be of insignificant value after removal from premises. Other

examples, again without limitation, shall include attach carpet and other floor covering, draperies, light fixtures, wall panel and permanently installed equipment. All such permanent improvements shall become property of the City when installed, unless the City otherwise agrees in writing. Lessee shall not convey a security interest in any permanent improvements to any creditor.

C. The City's approval of permanent improvements to be made by Lessee shall not make Lessee the agent or trustee of the City for any purpose, and the provisions of Paragraph 12 and Paragraph 8 shall be controlling. The Lessee shall not construe anything in Paragraph 7 of this lease, concerning the use of Premises, or in any other provisions of this lease as written approval by the City for permanent improvements.

10. OWNERSHIP OF PERSONAL PROPERTY AND TRADE FIXTURES:

A. Any personal property, furniture, fixtures, or equipment owned by the City and located on Premises at any time during the term of this lease shall remain the property of the City and shall not be removed from Premise without the City's written consent; Lessee may use such property in the conduct of its business, but shall suffer no waste or injury thereto, reasonable wear and tear excepted, and at all times shall keep such property clean and shall perform ordinary maintenance necessary to the preservation thereof; the City has no obligation either to rebuild, replace, maintain, repair, improve or remodel such personal property, furniture, fixtures or equipment being used by Lessee; Lessee shall repair and maintain such property a Lessee's sole expense. Lessee shall be liable to the City for destruction of such property resulting from Lessee's negligence or misuse thereof.

B. Lessee may replace or install on Premises, at its sole expense, such personal property, furniture, trade fixtures and equipment as it shall deem necessary for the conduct of its business; Lessee shall have the privilege, at any time during the term of this lease, of removing any and all of its personal property, furniture, trade fixtures and equipment except as provide hereafter and only so long as no permanent improvements as defined in Paragraph 10 of this lease shall be removed from Premises without the City's written consent. Lessee shall be liable to the City for all damages to Premises resulting from Lessee's removal of any property.

C. Forthwith upon termination of this lease for any reason, the Lessee shall remove all of its personal property from the Premises. In the event Lessee fails to remove its personal property, then the City may, at the City's option, take possession of the property, store it at Lessee's expense, and sell or otherwise dispose of the same. The City shall, however, provide written notification to Lessee by depositing a copy of a notice thereof in the United States mail, postage prepaid, addressed to Lessee at Lessee's address as specified in this lease. Such notice shall state the name of the Lessee, a brief description of the property and the date that the City intends to sell or otherwise dispose of such property. So long as the City complies with the notice provisions as herein set forth, the City shall not be liable either to Lessee or to any other person who claims any interest in any property sold or otherwise disposed of except as to any secured creditor who gives written notice to the City of his or her interest in the property prior to the time of sale or disposition. In the event the City has taken custody and possession of personal property pursuant to this provision, the Lessee shall have no right to the return thereof unless and until Lessee has paid all rent or other monies due and owing to the City and the reasonable expenses incurred by the City in holding and preparing the property for sale. In the event the City sells the property of Lessee, it shall be applied first to pay the City's expenses, then to reimburse the City for any rents or other monies due, and if any money remains, the City shall return it to the Lessee. Lessee shall protect, indemnify and save the City, its agent and employees harmless from any and all claims

for damages to said property while in the City's possession, whether such property is owned by Lessee, its officers, employees, agents or anyone else.

11. TOTAL AND PARTIAL DESTRUCTION OF PREMISES:

A. Partial Destruction: In the event Premises covered by this lease are not totally destroyed but are damaged by fire, wind or other occurrence to the extent that such damage is, within the sole opinion of the City, repairable with reasonable diligence within one hundred twenty (120) days after the happening of such destruction or damage, then:

1) The City may, at the City's option, either elect to repair the premises or to cancel this lease. In the event such lease is canceled, it shall be canceled as of the date of the damage or destruction, and no rent shall be due and payable thereafter. In the event the City elects to have the premises repaired, the repairs shall be completed as soon as reasonably practicable and all insurance monies covering the premises shall be available to the City in making such repairs. The City shall not be liable to spend any money on repairs over and above the insurance proceeds. In the event no election to repair is made, then all insurance proceeds on the premises shall become the sole property of the City.

2) In the event that the premises are to be repaired, then this lease shall continue in full force and effect, but rent due and owing from the Lessee to the City shall be abated from the date of partial destruction to the date the repairs are completed in the same ratio as that portion of the premises which is rendered unfit for occupancy bears to the whole.

B. Total Destruction: If, in the sole opinion of the City, there is total destruction of the premises, or, in the sole opinion of the City, the premises are so damaged or destroyed so as to render the whole or a substantial part thereof unfit for occupancy, and the same cannot be repaired with reasonable diligence within one hundred twenty (120) days after the happening of such destruction or damage, then:

1) Either party to this lease may terminate this lease by giving the other party written notification of such termination within fifteen (15) days after the occurrence of such damage or destruction (except that the Lessee may not exercise this option if such total destruction is the proximate result of the negligence of Lessee, its agents, servants or employees). In the event of termination, any unearned rent paid in advance by Lessee shall be refunded. In the event of termination by either party, all insurance proceeds applicable to the premises shall be the sole property of and shall be paid to the City.

2) Should neither party elect to terminate the lease, the City shall have the option to enter into negotiations for a mutually agreeable substitute lease with all insurance proceeds being used for the construction of a substitute building.

3) In no event shall the City, at any time, be required to restore premises or construct any building the total cost of which shall exceed the insurance available by reason of the destruction of the leased premises.

12. NO MECHANICS LIENS, NO AGENCY CREATED. Lessee is not the agent, partner or trustee of the City, and by this lease, Lessee acquires no rights to act for or on behalf of the City in regard to the repairs or building of any structure upon the leased premises. The City is not, and shall not, be liable for any labor, services or material furnished to Lessee, its officers, employees, agents or anybody claiming under this lease. No materialmen or persons furnishing labor or other services to Lessee shall have the right to file any lien upon the Premises, and no mechanics lien filed by any such materialmen, workers or other persons shall attach to Premises or affect the City's interest as owner of the Premises. Lessee shall not, at any time, hold him/herself out as Airport Lease Boutique Air, Inc. 2018

having any authority to act for and on behalf of the City or create a lien on the Premises. Should any lien be filed against the Premises by reason of any services, materials or work furnished for and on behalf of Lessee, the same shall constitute a breach of this lease by Lessee, and Lessee shall immediately cause the discharge of any such lien.

13. CONTEST OF LIENS:

A. Notwithstanding provisions of Paragraph 12 of this lease, Lessee shall have the right to contest any mechanics lien or other similar lien if Lessee notifies the City in writing of its intention to do so.

B. On demand of the City, Lessee shall provide a bond in the City's favor, the face amount of which shall be at least twice the amount of the lien claim contested to indemnify and protect the City against liability, loss, damage and expense of any nature resulting from said asserted lien and the contest thereof; if Lessee diligently prosecutes such contest, prevents any judicial sale of any part of premises and pays or otherwise satisfies a final judgment enforcing such contested lien claim and thereafter promptly procures record releases or satisfaction thereof, Lessee shall be discharged and the bond released.

14. INDEMNITY:

A. Lessee shall indemnify, protect, defend and save the City harmless from and against all claims, demands, liabilities and costs, including attorneys fee arising from damage or injury, actual or claimed, of whatever kind or character to property or persons allegedly occurring on or about Premises during this lease term or Lessee's period of actual possession of Premises, whichever is longer. Upon notice from the City, Lessee shall defend the City in any action or proceeding brought in connection with such claims and demands.

B. Nothing in this paragraph shall require Lessee to indemnify, protect, defend and save the City harmless against claims, demands, liabilities and costs arising from negligence of the City, its officers, employees, agents, licensees and invitees.

15. INSURANCE:

A. Lessee, at its sole expense, shall maintain public liability insurance to protect against any liability which may arise from accident or injury on or about the Premises; such liability insurance coverage shall have the following minimum requirements:

- 1) This policy shall be on a Comprehensive General Liability form.
- 2) The City shall be an additional insured as Lessor of the premises.
- 3) Policy limits shall be at least: \$1,000,000 per occurrence, \$2,000,000 aggregate.
- 4) Lessee shall also maintain workers compensation insurance for its employees and agents as required by Kansas Law.

B. The City reserves the right to require additional insurance if, in its sole discretion, the City deems such additional coverage to be necessary because of a substantial change in Lessee's operations or for any other reason. The Lessee shall pay the cost of any such additional insurance coverage.

C. Lessee shall procure any insurance coverage required by this lease through companies authorized to write insurance in Kansas as selected by the Lessee and approved in writing by the City. Lessee may include the required insurance coverage under its existing insurance policy, provided each insurance requirement of this lease is fulfilled thereby and the City approves thereof.

D. All insurance policies described in subparagraph A. and B. of this paragraph and renewals thereof shall name the City and Lessee as insured parties and shall contain a provision prohibiting cancellation by the insurer without at least ten (10) days prior written notice to the City and Lessee. Lessee shall deliver to the City a certificate of such insurance within ten (10) days after this agreement is executed between the City and Lessee.

E. In the event Lessee fails or neglects to procure and maintain require insurance coverage and pay premiums thereon, the City, at its option, either may treat such failure as a default and breach of this lease or procure such insurance and pay the premiums thereon, and add the cost thereof to basic rent due in the month following the date such costs are incurred.

16. **INSPECTION OF PREMISES.** Lessee shall permit agents and officers of the City and the Federal Aviation Administration free access to Premises at all reasonable times to examine and inspect the condition thereof and exercise any right reserved to the City in this lease.

17. **ASSIGNMENT AND SUBLEASES.** Lessee shall neither assign, mortgage, pledge, sell nor in any manner transfer, convey or dispose of this lease or any interest therein or part thereof whether voluntary, involuntary or by operation of law, and Lessee shall neither sublet Premises or any part thereof nor permit any licensee or concessionaire to operate thereon without prior written consent of the City in each instance. In the event the City gives such consent, neither sublease nor assignment of this lease by Lessee shall release Lessee from it obligations under this lease.

18. **TAXES.** Lessee shall pay to the proper governmental agencies as they become due all taxes, assessments and similar charges which, at any time during the term of this lease, may be taxed, assessed or imposed upon Lessee whether such taxes arise from this lease, the Premises and any permanent improvements thereto or from any other levy or assessment. The City shall not be liable to pay any such taxes.

19. **RULES AND REGULATIONS.** Lessee, its officers, agents and employees shall comply with all rule and regulations issued from time to time by the City in connection with the management and operation of the Dodge City Regional Airport properties, including land use restrictions.

20. **NONDISCRIMINATION ASSURANCES.**

A. The Lessee for itself, its subsidiaries, personal representatives, successor in interest, and assignees, as a part of the consideration hereof does hereby covenant and agree as a covenant running with the land that in the event facilities are constructed, maintained, or otherwise operated on the said property described in this lease for a purpose for which a Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, the Lessee shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended.

B. The Lessee, for itself, its subsidiaries, representatives, successors interest, and assignees, as part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that: (1) no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land and the furnishing of service thereon, no person on the ground of race, color, or national origin shall excluded from participation in, denied the benefits of, or otherwise subjected

to discrimination. (3) that the Lessee shall use the premises compliance with all other requirements imposed by or pursuant to 49 CFR Part 21. Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended.

C. Lessee shall furnish service on a fair, equal and not unjustly discriminatory basis to all users thereof and shall charge fair, reasonable and not unjustly discriminatory prices for each unit or service; provided, Lessee may make reasonable nondiscriminatory discounts, rebates and similar price reductions to volume purchasers. The City may take action directed by the United States Government to enforce this paragraph.

21. SUBORDINATION CLAUSE.

A. This lease shall be subordinate to provisions of any existing or future agreement between the City and the United States of America or any agency thereof relative to the operation or maintenance of the airport, the execution of which has been or may be required as a condition precedent to the expenditure of Federal funds for the development of the airport.

B. During time of war or national emergency, the City shall have the right to enter into an agreement with the United States Government for military or naval use of part or all of the landing area, the publicly owned air navigation facilities and/or other areas or facilities of the airport. If any such agreement is executed, the provisions of this instrument, insofar as they are inconsistent with the provisions of the agreement with the Government, shall be suspended.

22. NO EXCLUSIVE USE. It is understood and agreed that nothing herein contained shall be construed to grant or authorize the granting of an exclusive right within the meaning of Section 40103, Chapter 401, Subpart 1, Part A, Subtitle VII, Title 49 of the US Code, found at <http://www4.law.cornell.edu/uscode/49/40103.html>.

23. DEFAULT AND BREACH:

A. Lessee shall be in default of this lease whenever Lessee:

- 1) Fails to perform any duty, agreement or condition required by this lease;
- 2) Fails in the due and punctual payment of rent or any other monies due the City;
- 3) Files a voluntary petition under the bankruptcy act or an involuntary petition under such act is filed against Lessee, and Lessee, after full hearing, is adjudged to be bankrupt, insolvent or unable to pay its debts as they mature;
- 4) Makes an assignment for the benefit of its creditors;
- 5) A trustee or receiver, after full hearing, is appointed or retained to take charge of and manage any substantial part of the assets of Lessee;
- 6) Any execution or attachment shall issue against Lessee whereupon any part either of premises or of Lessee's interest therein shall be taken or an attempt is made to take the same in contemplation of a judicial sale there under (except that Lessee shall have the right to contest any such attachment or execution in the same manner and to the same extent as Lessee's right to contest liens as set forth in paragraph 13 hereof); or;
- 7) Abandons Premises; abandonment shall occur whenever Lessee, its officers, employees and agents all shall be and remain absent from premises for thirty (30) consecutive days without notice to the City of such absence. At the expiration of such thirty (30) day period, the City shall have the option to issue termination notice as provided in Paragraph 28 of this lease which shall take effect immediately on issuance thereof without providing a ten (10) day period within which to cure this default.

B. Lessee's default in performance of required duties, agreements and conditions shall constitute a breach of this lease. The City may, at its option, terminate this lease in the manner provided in Paragraph 24 on Lessee's default or at any time thereafter while Lessee continues in default.

C. Any waiver by the City of any default or breach of this lease shall neither be construed as a continuing waiver nor as a waiver of a subsequent default or breach and in no event shall imply further indulgence by the City.

24. TERMINATION:

A. This lease shall terminate:

- 1) Automatically at the expiration of its original or any renewal term;
- 2) Immediately after either party exercises the option to terminate provided in paragraph 11 of this lease;
- 3) Immediately upon the City exercising its option to terminate provided in Paragraph 23 of this lease;

4) Upon the occurrence of any default by Lessee as more particularly set forth in Paragraph 23. This lease shall terminate, at the City's option, upon the City serving upon Lessee a written notification entitled "Notice to Terminate Lease in Ten (10) Days and Right to Cure." Such right to cure notice shall specify the amount of past due rent and/or the nature of Lessee's other default and breach and shall state that the lease shall not terminate should the Lessee pay such past due rent and/or cure such other default and breach to the City's satisfaction prior to the expiration of the ten (10) days; but that the lease shall terminate automatically on the date specified in the notice unless such rent has been paid or other breach has been cured by such date.

B. In the event of termination by the City pursuant to the terms hereof, Lessee shall remain liable for payment of the full unpaid balance of all rent due for the remaining term of the lease, but shall upon such termination be obligated to forthwith return the Premises to the City. Upon such termination, the City shall have the immediate and unconditional right to reenter the Premises free of any right, title and interest of Lessee to the use and possession thereof, but such reentry shall not relieve Lessee's duty to comply with all requirements of this lease as specified herein. The remedies conferred upon the City herein shall not be considered exclusive of any other remedy, but shall be in addition to every other remedy available to the City as landlord under this lease and as matter of law. The failure of the City to insist upon a strict performance of any term or condition of this lease shall not be deemed a waiver of any right or remedy that the City may have and shall not be deemed a waiver or any subsequent breach of such term or condition.

25. SURRENDER OF POSSESSION.

A. Upon termination, Lessee shall forthwith peacefully surrender Premises to the City in good condition and repair, ordinary wear and tear excepted. Lessee shall be obligated to broom clean the Premises and immediately clear the Premises of all personal property except that owned by the City whether such property is owned by Lessee or by patrons of Lessee. Lessee shall remain liable to the City for all rent due and owing through the entire term of the lease.

B. In the event that Lessee's lease term has expired and Lessee remains on the Premises, even with the concurrence of the City, such acts shall not constitute a renewal of this lease nor require the City to forfeit any of its rights under this lease. In such event, Lessee shall be considered a tenant at will. No payment of money by Lessee to the City subsequent to the termination of this lease shall reinstate, continue or extend the terms of this lease, but Lessee shall remain in full compliance with all such terms and conditions of this Lease during such extended possession.

26. ATTORNEY FEES. If in the sole determination of the City, the services of an attorney are required to enforce any provision of this Lease, the Lessee shall fully indemnify the City for any and all attorney fees and expenses so incurred.

27. USE OF PREMISES. Lessee shall provide a high standard of customer services consistent with good customer relations for the benefit of the public and adequate to meet the demands for such services at the Dodge City Regional Airport.

28. SERVICE OF NOTICE:

A. All notices and other written documents required or described to issue under this lease shall be served and delivered for all purposes:

B. Upon the City by delivery to the office of the Airport Manager or by mailing certified or registered mail, postage prepaid, addressed to:

Dodge City Regional Airport
P.O. Box 880
Dodge City, KS 67801

or at such other place as the City may designate in writing;

C. Upon Lessee by delivery in person to Lessee or any of its executive officers or by mailing by certified or registered mail, postage prepaid, addressed to Lessee at

Boutique Air, Inc.
5 3rd Street, Suite 320
San Francisco, CA 94103

or such other place as Lessee may designate in writing to the City.

D. All notices sent by certified or registered mail shall be presumed delivered as of the day following the date they are mailed.

THIS LEASE shall be binding among heirs, executors, administrators, successors and assignees of the respective parties hereto. This lease constitutes the entire agreement between the parties and shall be modified only upon execution by all parties of a written document setting forth any change or additions and bearing the effective date thereof. Two copies of this lease are executed: each shall be deemed an original.

IN WITNESS WHEREOF the respective parties hereto have caused this instrument to be executed on their behalf by their duly authorized officers of the dates indicated below. The lease shall become binding when properly executed by both parties hereto, and the effective date of this lease shall be the date specified in the first paragraph of this lease.

JAN 9, 2018 Date By: [Signature]
Lessee or its authorized representative

Boutique Air, Inc.
5 3rd Street, Suite 320
San Francisco, CA 94103

January 9, 2018 Date By: [Signature]
Corey Keller, Airport Manager

Date By: _____
Rick Sowers, Mayor

Attest: _____
Nannette Pogue, City Clerk

STATE OF KANSAS, CITY OF DODGE CITY, ss:

BE IT REMEMBERED, that on this _____ day of _____, 20____, before me, the undersigned Notary Public in and for the County and State aforesaid came, Rick Sowers, Mayor and Nannette Pogue, Clerk of the City of Dodge City, KS who is personally known to me to be the same person(s) who executed the above lease, and duly acknowledged the execution of the same.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal on the day and year last above written.

Notary Public

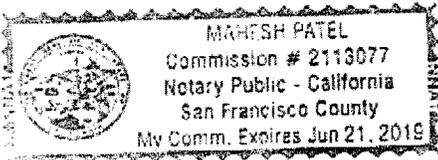
(SEAL)

My appointment expires: _____

STATE OF CALIFORNIA, CITY OF SAN FRANCISCO, ss:

BE IT REMEMBERED, that on this 9th day of January, 2018, before me, the undersigned Notary Public in and for the County and state aforesaid came, (Print Name) Brian M Murphy of Restonville, who is personally known to me to be the same person who executed the above lease, and duly acknowledged the execution of the same.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed official seal on the day and year last above written.



[Signature]

Notary Public

(SEAL)

My appointment expires: 21 June 2019

ADDENDUM TO EMPLOYMENT CONTRACT

THIS ADDENDUM is to the Employment Agreement dated January 20, 2014, by and between Cherise L. Tieben (“Tieben”) and the City Commission of the City of Dodge City, Kansas, (“the City”) (collectively the “Parties”).

IN CONSIDERATION of the provisions stated in said Employment Agreement and the provisions contained herein, the Parties agree as follows:

1. Section 6 – Salary – shall be amended from the 2017 rate of one hundred twenty-six thousand, two hundred ninety-seven dollars (\$126,297) to one hundred thirty-three thousand, three hundred twelve dollars (\$133,312) annually.
2. Section 9 - Automobile Expense Allowance – shall be amended from the 2017 rate of four thousand, eight hundred thirty-nine dollars (\$4,839) to five thousand, eighty dollars (\$5,080) annually.
3. Section 13 – Cellular Telephone – shall be amended from the 2014 rate of one thousand, three hundred ninety-nine dollars (\$1,399) to one thousand, four hundred sixty-nine dollars (\$1,469) annually.

All other terms and provisions of the Employment Agreement dated January 20, 2014 shall remain in effect without modification.

IN WITNESS WHEREOF, the parties have executed this Addendum to said Employment Agreement effective January ___, 2018.

Rick Sowers, Mayor
City of Dodge City, Kansas

Dated this _____ day of January, 2018.

ATTEST:

Nannette Pogue, City Clerk

(seal)

Cherise Tieben, City Manager

Dated this _____ day of January, 2018

Memorandum

To: City Commissioners
From: Cherise Tieben, City Manager
Date: January 11, 2018
Subject: Agreements for sale of gas
Agenda Item: New Business

Recommendation: Staff recommends approval of the Base Contract for Sale and Purchase of Natural Gas and accept the Transaction Confirmation Proposal for Immediate Delivery pending legal review by legal counsel.

Background: Attached you will find a NAESB Base Agreement and Confirmation for the sale of RNG from Dodge City to OCI for \$12.00/MMBtu. The transaction will continue until such time as Dodge City is able to move the gas into the domestic transport market. Gas may be flowing next week so we would like to get these Agreements in place.

Justification: Acceptance of these two agreements is in conformance with previous discussions with Kinect and agreements with OCI.

Financial Considerations: The value of the gas has been established by Kinect on our behalf in accordance with their consulting contract.

Purpose/Mission: Together we value progress, growth and new possibilities and preparing for the community's future.

Legal Considerations: Approval sought pending legal review.

Attachments: Base Contract for Sale and Purchase of Natural Gas and Transaction Confirmation Proposal for Immediate Delivery.

Base Contract for Sale and Purchase of Natural Gas

This Base Contract is entered into as of the following date: _____, 2017

The parties to this Base Contract are the following:

PARTY A Dodge City, Kansas	PARTY NAME	PARTY B OCI Fuels Limited
P.O. Box 880, 806 N. 2 nd Ave Dodge City, KS 67801	ADDRESS	660 Madison Ave, 19th Floor New York, NY 10065
www.wfscorp.com	BUSINESS WEBSITE	
	CONTRACT NUMBER	
	D-U-N-S® NUMBER	
<input checked="" type="checkbox"/> US FEDERAL: 48-6008416 <input type="checkbox"/> OTHER:	TAX ID NUMBERS	<input checked="" type="checkbox"/> US FEDERAL: 98-1273596 <input type="checkbox"/> OTHER:
Kansas	JURISDICTION OF ORGANIZATION	
<input type="checkbox"/> Corporation <input type="checkbox"/> LLC <input type="checkbox"/> Limited Partnership <input type="checkbox"/> Partnership <input type="checkbox"/> LLP <input checked="" type="checkbox"/> Other: <u>Municipality</u>	COMPANY TYPE	<input checked="" type="checkbox"/> Corporation <input type="checkbox"/> LLC <input type="checkbox"/> Limited Partnership <input type="checkbox"/> Partnership <input type="checkbox"/> LLP <input type="checkbox"/> Other: _____
TBD	GUARANTOR (IF APPLICABLE)	TBD
CONTACT INFORMATION		
<u>Same as Above</u> ATTN: <u>Brad Ralph</u> TEL#: _____ FAX#: _____ EMAIL: <u>bradr@dodgecity.org</u>	<input checked="" type="checkbox"/> COMMERCIAL	<u>OCI Fuels Limited</u> ATTN: <u>Kevin Struve</u> TEL#: <u>011-44-20-7439-4801</u> FAX#: _____ EMAIL: <u>Kevin.Struve@oci.nl</u>
<u>Same as Above</u> ATTN: _____ TEL#: _____ FAX#: _____ EMAIL: _____	<input type="checkbox"/> SCHEDULING	<u>OCI Fuels Limited</u> ATTN: <u>Kevin Struve</u> TEL#: <u>011-44-20-7439-4801</u> FAX#: _____ EMAIL: <u>Kevin.Struve@oci.nl</u>
<u>Same as Above</u> ATTN: <u>Brad Ralph</u> TEL#: _____ FAX#: _____ EMAIL: <u>bradr@dodgecity.org</u>	<input type="checkbox"/> CONTRACT AND LEGAL NOTICES	<u>OCI Fuels Limited</u> ATTN: <u>Kevin Struve</u> TEL#: <u>011-44-20-7439-4801</u> FAX#: _____ EMAIL: <u>Kevin.Struve@oci.nl</u>
<u>Same as Above</u> ATTN: <u>Brad Ralph</u> TEL#: _____ FAX#: _____ EMAIL: <u>bradr@dodgecity.org</u>	<input type="checkbox"/> CREDIT	<u>OCI Fuels Limited</u> ATTN: <u>Kevin Struve</u> TEL#: <u>011-44-20-7439-4801</u> FAX#: _____ EMAIL: <u>Kevin.Struve@oci.nl</u>
<u>Same as Above</u> ATTN: <u>Brad Ralph</u> TEL#: _____ FAX#: _____ EMAIL: <u>bradr@dodgecity.org</u>	<input type="checkbox"/> TRANSACTION CONFIRMATIONS	<u>OCI Fuels Limited</u> ATTN: <u>Kevin Struve</u> TEL#: <u>011-44-20-7439-4801</u> FAX#: _____ EMAIL: <u>Kevin.Struve@oci.nl</u>
ACCOUNTING INFORMATION		
<u>Same as Above</u> ATTN: _____ TEL#: _____ FAX#: _____ EMAIL: _____	<input type="checkbox"/> INVOICES <input type="checkbox"/> PAYMENTS <input type="checkbox"/> SETTLEMENTS	<u>OCI Fuels Limited</u> ATTN: <u>Kevin Struve</u> TEL#: <u>011-44-20-7439-4801</u> FAX#: _____ EMAIL: <u>Kevin.Struve@oci.nl</u>
BANK: _____ ABA: _____ ACCT: _____ OTHER DETAILS: _____	<input type="checkbox"/> WIRE TRANSFER NUMBERS (IF APPLICABLE)	BANK: _____ ABA: _____ ACCT: _____ OTHER DETAILS: _____
BANK: _____ ABA: _____ ACCT: _____ OTHER DETAILS: _____	<input type="checkbox"/> ACH NUMBERS (IF APPLICABLE)	BANK: _____ ABA: _____ ACCT: _____ OTHER DETAILS: _____
ATTN: _____ ADDRESS: _____	<input type="checkbox"/> CHECKS (IF APPLICABLE)	ATTN: _____ ADDRESS: _____

Base Contract for Sale and Purchase of Natural Gas

(Continued)

This Base Contract incorporates by reference for all purposes the General Terms and Conditions for Sale and Purchase of Natural Gas published by the North American Energy Standards Board. The parties hereby agree to the following provisions offered in said General Terms and Conditions. In the event the parties fail to check a box, the specified default provision shall apply. Select the appropriate box(es) from each section:

<p>Section 1.2 <input checked="" type="checkbox"/> Oral (default) Transaction Procedure OR <input type="checkbox"/> Written</p>	<p>Section 10.2 <input checked="" type="checkbox"/> No Additional Events of Default (default) Additional Events of Default <input type="checkbox"/> Indebtedness Cross Default <input type="checkbox"/> Party A: _____ <input type="checkbox"/> Party B: _____ <input type="checkbox"/> Transactional Cross Default <u>Specified Transactions:</u> _____ _____</p>
<p>Section 2.7 <input checked="" type="checkbox"/> 2 Business Days after receipt (default) Confirm Deadline OR <input type="checkbox"/> _____ Business Days after receipt</p>	
<p>Section 2.8 <input checked="" type="checkbox"/> Seller (default) Confirming Party OR <input type="checkbox"/> Buyer <input type="checkbox"/> _____</p>	
<p>Section 3.2 <input checked="" type="checkbox"/> Cover Standard (default) Performance Obligation OR <input type="checkbox"/> Spot Price Standard</p>	<p>Section 10.3.1 <input checked="" type="checkbox"/> Early Termination Damages Apply (default) Early Termination Damages OR <input type="checkbox"/> Early Termination Damages Do Not Apply</p>
<p>Note: The following Spot Price Publication applies to both of the immediately preceding.</p>	
<p>Section 2.31 <input checked="" type="checkbox"/> Gas Daily Midpoint (default) Spot Price Publication OR <input type="checkbox"/> _____</p>	<p>Section 10.3.2 <input checked="" type="checkbox"/> Other Agreement Setoffs Apply (default) Other Agreement Setoffs <input checked="" type="checkbox"/> Bilateral (default) <input type="checkbox"/> Triangular OR <input type="checkbox"/> Other Agreement Setoffs Do Not Apply</p>
<p>Section 6 <input checked="" type="checkbox"/> Buyer Pays At and After Delivery Point (default) Taxes OR <input type="checkbox"/> Seller Pays Before and At Delivery Point</p>	
<p>Section 7.2 <input checked="" type="checkbox"/> 25th Day of Month following Month of delivery (default) Payment Date OR <input type="checkbox"/> Day of Month following Month of delivery</p>	<p>Section 15.5 Minnesota Choice Of Law</p>
<p>Section 7.2 <input checked="" type="checkbox"/> Wire transfer (default) Method of Payment <input type="checkbox"/> Automated Clearinghouse Credit (ACH) <input type="checkbox"/> Check</p>	<p>Section 15.10 <input checked="" type="checkbox"/> Confidentiality applies (default) Confidentiality OR <input type="checkbox"/> Confidentiality does not apply</p>
<p>Section 7.7 <input checked="" type="checkbox"/> Netting applies (default) Netting OR <input type="checkbox"/> Netting does not apply</p>	
<p><input type="checkbox"/> Special Provisions Number of sheets attached: _____</p>	
<p><input type="checkbox"/> Addendum(s): _____</p>	

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

Dodge City, Kansas	<i>PARTY NAME</i>	OCI Fuels Limited
By: _____	<i>SIGNATURE</i>	By: _____
Mayor	<i>PRINTED NAME</i>	Kevin Struve
	<i>TITLE</i>	President

General Terms and Conditions

Base Contract for Sale and Purchase of Natural Gas

SECTION 1. PURPOSE AND PROCEDURES

1.1. These General Terms and Conditions are intended to facilitate purchase and sale transactions of Gas on a Firm or Interruptible basis. "Buyer" refers to the party receiving Gas and "Seller" refers to the party delivering Gas. The entire agreement between the parties shall be the Contract as defined in Section 2.9.

The parties have selected either the "Oral Transaction Procedure" or the "Written Transaction Procedure" as indicated on the Base Contract.

Oral Transaction Procedure:

1.2. The parties will use the following Transaction Confirmation procedure. Any Gas purchase and sale transaction may be effectuated in an EDI transmission or telephone conversation with the offer and acceptance constituting the agreement of the parties. The parties shall be legally bound from the time they so agree to transaction terms and may each rely thereon. Any such transaction shall be considered a "writing" and to have been "signed". Notwithstanding the foregoing sentence, the parties agree that Confirming Party shall, and the other party may, confirm a telephonic transaction by sending the other party a Transaction Confirmation by facsimile, EDI or mutually agreeable electronic means within three Business Days of a transaction covered by this Section 1.2 (Oral Transaction Procedure) provided that the failure to send a Transaction Confirmation shall not invalidate the oral agreement of the parties. Confirming Party adopts its confirming letterhead, or the like, as its signature on any Transaction Confirmation as the identification and authentication of Confirming Party. If the Transaction Confirmation contains any provisions other than those relating to the commercial terms of the transaction (i.e., price, quantity, performance obligation, delivery point, period of delivery and/or transportation conditions), which modify or supplement the Base Contract or General Terms and Conditions of this Contract (e.g., arbitration or additional representations and warranties), such provisions shall not be deemed to be accepted pursuant to Section 1.3 but must be expressly agreed to by both parties; provided that the foregoing shall not invalidate any transaction agreed to by the parties.

Written Transaction Procedure:

1.2. The parties will use the following Transaction Confirmation procedure. Should the parties come to an agreement regarding a Gas purchase and sale transaction for a particular Delivery Period, the Confirming Party shall, and the other party may, record that agreement on a Transaction Confirmation and communicate such Transaction Confirmation by facsimile, EDI or mutually agreeable electronic means, to the other party by the close of the Business Day following the date of agreement. The parties acknowledge that their agreement will not be binding until the exchange of nonconflicting Transaction Confirmations or the passage of the Confirm Deadline without objection from the receiving party, as provided in Section 1.3.

1.3. If a sending party's Transaction Confirmation is materially different from the receiving party's understanding of the agreement referred to in Section 1.2, such receiving party shall notify the sending party via facsimile, EDI or mutually agreeable electronic means by the Confirm Deadline, unless such receiving party has previously sent a Transaction Confirmation to the sending party. The failure of the receiving party to so notify the sending party in writing by the Confirm Deadline constitutes the receiving party's agreement to the terms of the transaction described in the sending party's Transaction Confirmation. If there are any material differences between timely sent Transaction Confirmations governing the same transaction, then neither Transaction Confirmation shall be binding until or unless such differences are resolved including the use of any evidence that clearly resolves the differences in the Transaction Confirmations. In the event of a conflict among the terms of (i) a binding Transaction Confirmation pursuant to Section 1.2, (ii) the oral agreement of the parties which may be evidenced by a recorded conversation, where the parties have selected the Oral Transaction Procedure of the Base Contract, (iii) the Base Contract, and (iv) these General Terms and Conditions, the terms of the documents shall govern in the priority listed in this sentence.

1.4. The parties agree that each party may electronically record all telephone conversations with respect to this Contract between their respective employees, without any special or further notice to the other party. Each party shall obtain any necessary consent of its agents and employees to such recording. Where the parties have selected the Oral Transaction Procedure in Section 1.2 of the Base Contract, the parties agree not to contest the validity or enforceability of telephonic recordings entered into in accordance with the requirements of this Base Contract.

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. "Additional Event of Default" shall mean Transactional Cross Default or Indebtedness Cross Default, each as and if selected by the parties pursuant to the Base Contract.

2.2. "Affiliate" shall mean, in relation to any person, any entity controlled, directly or indirectly, by the person, any entity that controls, directly or indirectly, the person or any entity directly or indirectly under common control with the person. For this purpose, "control" of any entity or person means ownership of at least 50 percent of the voting power of the entity or person.

- 2.3. "Alternative Damages" shall mean such damages, expressed in dollars or dollars per MMBtu, as the parties shall agree upon in the Transaction Confirmation, in the event either Seller or Buyer fails to perform a Firm obligation to deliver Gas in the case of Seller or to receive Gas in the case of Buyer.
- 2.4. "Base Contract" shall mean a contract executed by the parties that incorporates these General Terms and Conditions by reference; that specifies the agreed selections of provisions contained herein; and that sets forth other information required herein and any Special Provisions and addendum(s) as identified on page one.
- 2.5. "British thermal unit" or "Btu" shall mean the International BTU, which is also called the Btu (IT).
- 2.6. "Business Day(s)" shall mean Monday through Friday, excluding Federal Banking Holidays for transactions in the U.S.
- 2.7. "Confirm Deadline" shall mean 5:00 p.m. in the receiving party's time zone on the second Business Day following the Day a Transaction Confirmation is received or, if applicable, on the Business Day agreed to by the parties in the Base Contract; provided, if the Transaction Confirmation is time stamped after 5:00 p.m. in the receiving party's time zone, it shall be deemed received at the opening of the next Business Day.
- 2.8. "Confirming Party" shall mean the party designated in the Base Contract to prepare and forward Transaction Confirmations to the other party.
- 2.9. "Contract" shall mean the legally-binding relationship established by (i) the Base Contract, (ii) any and all binding Transaction Confirmations and (iii) where the parties have selected the Oral Transaction Procedure in Section 1.2 of the Base Contract, any and all transactions that the parties have entered into through an EDI transmission or by telephone, but that have not been confirmed in a binding Transaction Confirmation, all of which shall form a single integrated agreement between the parties.
- 2.10. "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 agreed to by the parties in a transaction.
- 2.11. "Contract Quantity" shall mean the quantity of Gas to be delivered and taken as agreed to by the parties in a transaction.
- 2.12. "Cover Standard", as referred to in Section 3.2, shall mean that if there is an unexcused failure to take or deliver any quantity of Gas pursuant to this Contract, then the performing party shall use commercially reasonable efforts to (i) if Buyer is the performing party, obtain Gas, (or an alternate fuel if elected by Buyer and replacement Gas is not available), or (ii) if Seller is the performing party, sell Gas, in either case, at a price reasonable for the delivery or production area, as applicable, consistent with: the amount of notice provided by the nonperforming party; the immediacy of the Buyer's Gas consumption needs or Seller's Gas sales requirements, as applicable; the quantities involved; and the anticipated length of failure by the nonperforming party.
- 2.13. "Credit Support Obligation(s)" shall mean any obligation(s) to provide or establish credit support for, or on behalf of, a party to this Contract such as cash, an irrevocable standby letter of credit, a margin agreement, a prepayment, a security interest in an asset, guaranty, or other good and sufficient security of a continuing nature.
- 2.14. "Day" shall mean a period of 24 consecutive hours, coextensive with a "day" as defined by the Receiving Transporter in a particular transaction.
- 2.15. "Delivery Period" shall be the period during which deliveries are to be made as agreed to by the parties in a transaction.
- 2.16. "Delivery Point(s)" shall mean such point(s) as are agreed to by the parties in a transaction.
- 2.17. "EDI" shall mean an electronic data interchange pursuant to an agreement entered into by the parties, specifically relating to the communication of Transaction Confirmations under this Contract.
- 2.18. "EFP" shall mean the purchase, sale or exchange of natural Gas as the "physical" side of an exchange for physical transaction involving gas futures contracts. EFP shall incorporate the meaning and remedies of "Firm", provided that a party's excuse for nonperformance of its obligations to deliver or receive Gas will be governed by the rules of the relevant futures exchange regulated under the Commodity Exchange Act.
- 2.19. "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; provided, however, that during Force Majeure interruptions, the party invoking Force Majeure may be responsible for any Imbalance Charges as set forth in Section 4.3 related to its interruption after the nomination is made to the Transporter and until the change in deliveries and/or receipts is confirmed by the Transporter.
- 2.20. "Gas" shall mean any mixture of hydrocarbons and noncombustible gases in a gaseous state consisting primarily of methane.
- 2.21. "Guarantor" shall mean any entity that has provided a guaranty of the obligations of a party hereunder.
- 2.22. "Imbalance Charges" shall mean any fees, penalties, costs or charges (in cash or in kind) assessed by a Transporter for failure to satisfy the Transporter's balance and/or nomination requirements.
- 2.23. "Indebtedness Cross Default" shall mean if selected on the Base Contract by the parties with respect to a party, that it or its Guarantor, if any, experiences a default, or similar condition or event however therein defined, under one or more agreements or instruments, individually or collectively, relating to indebtedness (such indebtedness to include any obligation whether present or future, contingent or otherwise, as principal or surety or otherwise) for the payment or repayment of borrowed money in an aggregate amount greater than the threshold specified in the Base Contract with respect to such party or its Guarantor, if any, which results in such indebtedness becoming immediately due and payable.

- 2.24. "Interruptible" shall mean that either party may interrupt its performance at any time for any reason, whether or not caused by an event of Force Majeure, with no liability, except such interrupting party may be responsible for any Imbalance Charges as set forth in Section 4.3 related to its interruption after the nomination is made to the Transporter and until the change in deliveries and/or receipts is confirmed by Transporter.
- 2.25. "MMBtu" shall mean one million British thermal units, which is equivalent to one dekatherm.
- 2.26. "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.
- 2.27. "Payment Date" shall mean a date, as indicated on the Base Contract, on or before which payment is due Seller for Gas received by Buyer in the previous Month.
- 2.28. "Receiving Transporter" shall mean the Transporter receiving Gas at a Delivery Point, or absent such receiving Transporter, the Transporter delivering Gas at a Delivery Point.
- 2.29. "Scheduled Gas" shall mean the quantity of Gas confirmed by Transporter(s) for movement, transportation or management.
- 2.30. "Specified Transaction(s)" shall mean any other transaction or agreement between the parties for the purchase, sale or exchange of physical Gas, and any other transaction or agreement identified as a Specified Transaction under the Base Contract.
- 2.31. "Spot Price " as referred to in Section 3.2 shall mean the price listed in the publication indicated on the Base Contract, under the listing applicable to the geographic location closest in proximity to the Delivery Point(s) for the relevant Day; provided, if there is no single price published for such location for such Day, but there is published a range of prices, then the Spot Price shall be the average of such high and low prices. If no price or range of prices is published for such Day, then the Spot Price shall be the average of the following: (i) the price (determined as stated above) for the first Day for which a price or range of prices is published that next precedes the relevant Day; and (ii) the price (determined as stated above) for the first Day for which a price or range of prices is published that next follows the relevant Day.
- 2.32. "Transaction Confirmation" shall mean a document, similar to the form of Exhibit A, setting forth the terms of a transaction formed pursuant to Section 1 for a particular Delivery Period.
- 2.33. "Transactional Cross Default" shall mean if selected on the Base Contract by the parties with respect to a party, that it shall be in default, however therein defined, under any Specified Transaction.
- 2.34. "Termination Option" shall mean the option of either party to terminate a transaction in the event that the other party fails to perform a Firm obligation to deliver Gas in the case of Seller or to receive Gas in the case of Buyer for a designated number of days during a period as specified on the applicable Transaction Confirmation.
- 2.35. "Transporter(s)" shall mean all Gas gathering or pipeline companies, or local distribution companies, acting in the capacity of a transporter, transporting Gas for Seller or Buyer upstream or downstream, respectively, of the Delivery Point pursuant to a particular transaction.

SECTION 3. PERFORMANCE OBLIGATION

- 3.1. Seller agrees to sell and deliver, and Buyer agrees to receive and purchase, the Contract Quantity for a particular transaction in accordance with the terms of the Contract. Sales and purchases will be on a Firm or Interruptible basis, as agreed to by the parties in a transaction.

The parties have selected either the "Cover Standard" or the "Spot Price Standard" as indicated on the Base Contract.

Cover Standard:

3.2. The sole and exclusive remedy of the parties in the event of a breach of a Firm obligation to deliver or receive Gas shall be recovery of the following: (i) in the event of a breach by Seller on any Day(s), payment by Seller to Buyer in an amount equal to the positive difference, if any, between the purchase price paid by Buyer utilizing the Cover Standard and the Contract Price, adjusted for commercially reasonable differences in transportation costs to or from the Delivery Point(s), multiplied by the difference between the Contract Quantity and the quantity actually delivered by Seller for such Day(s) excluding any quantity for which no replacement is available; or (ii) in the event of a breach by Buyer on any Day(s), payment by Buyer to Seller in the amount equal to the positive difference, if any, between the Contract Price and the price received by Seller utilizing the Cover Standard for the resale of such Gas, adjusted for commercially reasonable differences in transportation costs to or from the Delivery Point(s), multiplied by the difference between the Contract Quantity and the quantity actually taken by Buyer for such Day(s) excluding any quantity for which no sale is available; and (iii) in the event that Buyer has used commercially reasonable efforts to replace the Gas or Seller has used commercially reasonable efforts to sell the Gas to a third party, and no such replacement or sale is available for all or any portion of the Contract Quantity of Gas, then in addition to (i) or (ii) above, as applicable, the sole and exclusive remedy of the performing party with respect to the Gas not replaced or sold shall be an amount equal to any unfavorable difference between the Contract Price and the Spot Price, adjusted for such transportation to the applicable Delivery Point, multiplied by the quantity of such Gas not replaced or sold. Imbalance Charges shall not be recovered under this Section 3.2, but Seller and/or Buyer shall be responsible for Imbalance Charges, if any, as provided in Section 4.3. The amount of such unfavorable difference shall be payable five Business Days after presentation of the performing party's invoice, which shall set forth the basis upon which such amount was calculated.

Spot Price Standard:

3.2. The sole and exclusive remedy of the parties in the event of a breach of a Firm obligation to deliver or receive Gas shall be recovery of the following: (i) in the event of a breach by Seller on any Day(s), payment by Seller to Buyer in an amount equal to the difference between the Contract Quantity and the actual quantity delivered by Seller and received by Buyer for such Day(s), multiplied by the positive difference, if any, obtained by subtracting the Contract Price from the Spot Price; or (ii) in the event of a breach by Buyer on any Day(s), payment by Buyer to Seller in an amount equal to the difference between the Contract Quantity and the actual quantity delivered by Seller and received by Buyer for such Day(s), multiplied by the positive difference, if any, obtained by subtracting the applicable Spot Price from the Contract Price. Imbalance Charges shall not be recovered under this Section 3.2, but Seller and/or Buyer shall be responsible for Imbalance Charges, if any, as provided in Section 4.3. The amount of such unfavorable difference shall be payable five Business Days after presentation of the performing party's invoice, which shall set forth the basis upon which such amount was calculated.

3.3. Notwithstanding Section 3.2, the parties may agree to Alternative Damages in a Transaction Confirmation executed in writing by both parties.

3.4. In addition to Sections 3.2 and 3.3, the parties may provide for a Termination Option in a Transaction Confirmation executed in writing by both parties. The Transaction Confirmation containing the Termination Option will designate the length of nonperformance triggering the Termination Option and the procedures for exercise thereof, how damages for nonperformance will be compensated, and how liquidation costs will be calculated.

SECTION 4. TRANSPORTATION, NOMINATIONS, AND IMBALANCES

4.1. Seller shall have the sole responsibility for transporting the Gas to the Delivery Point(s). Buyer shall have the sole responsibility for transporting the Gas from the Delivery Point(s).

4.2. The parties shall coordinate their nomination activities, giving sufficient time to meet the deadlines of the affected Transporter(s). Each party shall give the other party timely prior Notice, sufficient to meet the requirements of all Transporter(s) involved in the transaction, of the quantities of Gas to be delivered and purchased each Day. Should either party become aware that actual deliveries at the Delivery Point(s) are greater or lesser than the Scheduled Gas, such party shall promptly notify the other party.

4.3. The parties shall use commercially reasonable efforts to avoid imposition of any Imbalance Charges. If Buyer or Seller receives an invoice from a Transporter that includes Imbalance Charges, the parties shall determine the validity as well as the cause of such Imbalance Charges. If the Imbalance Charges were incurred as a result of Buyer's receipt of quantities of Gas greater than or less than the Scheduled Gas, then Buyer shall pay for such Imbalance Charges or reimburse Seller for such Imbalance Charges paid by Seller. If the Imbalance Charges were incurred as a result of Seller's delivery of quantities of Gas greater than or less than the Scheduled Gas, then Seller shall pay for such Imbalance Charges or reimburse Buyer for such Imbalance Charges paid by Buyer.

SECTION 5. QUALITY AND MEASUREMENT

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

SECTION 6. TAXES

The parties have selected either "Buyer Pays At and After Delivery Point" or "Seller Pays Before and At Delivery Point" as indicated on the Base Contract.

Buyer Pays At and After Delivery Point:

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 the Delivery Point(s) and all Taxes 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.

Seller Pays Before and At Delivery Point:

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) and all Taxes at the Delivery Point(s). Buyer shall pay or cause to be paid all Taxes on or with respect to the Gas 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 7. BILLING, PAYMENT, AND AUDIT

7.1. Seller shall invoice Buyer for Gas delivered and received in the preceding Month and for any other applicable charges, providing supporting documentation acceptable in industry practice to support the amount charged. If the actual quantity delivered is not known by the billing date, billing will be prepared based on the quantity of Scheduled Gas. 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 available.

7.2. Buyer shall remit the amount due under Section 7.1 in the manner specified in the Base Contract, in immediately available funds, on or before the later of the Payment Date or 10 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. In the event any payments are due Buyer hereunder, payment to Buyer shall be made in accordance with this Section 7.2.

7.3. In the event payments become due pursuant to Sections 3.2 or 3.3, the performing party may submit an invoice to the nonperforming party for an accelerated payment setting forth the basis upon which the invoiced amount was calculated. Payment from the nonperforming party will be due five Business Days after receipt of invoice.

7.4. 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 without undue delay. 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.

7.5. 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 annum; or (ii) the maximum applicable lawful interest rate.

7.6. 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, records, and telephone recordings 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 transactions under 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 two years after the Month of Gas delivery. All retroactive adjustments under Section 7 shall be paid in full by the party owing payment within 30 Days of Notice and substantiation of such inaccuracy.

7.7. Unless the parties have elected on the Base Contract not to make this Section 7.7 applicable to this Contract, the parties shall net all undisputed amounts due and owing, and/or past due, arising under the Contract such that the party owing the greater amount shall make a single payment of the net amount to the other party in accordance with Section 7; provided that no payment required to be made pursuant to the terms of any Credit Support Obligation or pursuant to Section 7.3 shall be subject to netting under this Section. If the parties have executed a separate netting agreement, the terms and conditions therein shall prevail to the extent inconsistent herewith.

SECTION 8. TITLE, WARRANTY, AND INDEMNITY

8.1. 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 assume any liability with respect to said Gas after its delivery to Buyer at the Delivery Point(s).

8.2. 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. EXCEPT AS PROVIDED IN THIS SECTION 8.2 AND IN SECTION 15.8, ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR OF FITNESS FOR ANY PARTICULAR PURPOSE, ARE DISCLAIMED.

8.3. 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 (including death) 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 (including death) or property damage from said Gas or other charges thereon which attach after title passes to Buyer.

8.4. The parties agree that the delivery of and the transfer of title to all Gas under this Contract shall take place within the Customs Territory of the United States (as defined in general note 2 of the Harmonized Tariff Schedule of the United States 19 U.S.C. §1202, General Notes, page 3); provided, however, that in the event Seller took title to the Gas outside the Customs Territory of the United States, Seller represents and warrants that it is the importer of record for all Gas entered and delivered into the United States, and shall be responsible for entry and entry summary filings as well as the payment of duties, taxes and fees, if any, and all applicable record keeping requirements.

8.5. Notwithstanding the other provisions of this Section 8, as between Seller and Buyer, Seller will be liable for all Claims to the extent that such arise from the failure of Gas delivered by Seller to meet the quality requirements of Section 5.

SECTION 9. NOTICES

9.1. All Transaction Confirmations, invoices, payment instructions, and other communications made pursuant to the Base Contract ("Notices") shall be made to the addresses specified in writing by the respective parties from time to time.

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

9.3. 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.

9.4. The party receiving a commercially acceptable Notice of change in payment instructions or other payment information shall not be obligated to implement such change until ten Business Days after receipt of such Notice.

SECTION 10. FINANCIAL RESPONSIBILITY

10.1. If either party ("X") has reasonable grounds for insecurity regarding the performance of any obligation under this Contract (whether or not then due) by the other party ("Y") (including, without limitation, the occurrence of a material change in the creditworthiness of Y or its Guarantor, if applicable), X may demand Adequate Assurance of Performance. "Adequate Assurance of Performance" shall mean sufficient security in the form, amount, for a term, and from an issuer, all as reasonably acceptable to X, including, but not limited to cash, a standby irrevocable letter of credit, a prepayment, a security interest in an asset or guaranty. Y hereby grants to X a continuing first priority security interest in, lien on, and right of setoff against all Adequate Assurance of Performance in the form of cash transferred by Y to X pursuant to this Section 10.1. Upon the return by X to Y of such Adequate Assurance of Performance, the security interest and lien granted hereunder on that Adequate Assurance of Performance shall be released automatically and, to the extent possible, without any further action by either party.

10.2. 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 perform any obligation to the other party with respect to any Credit Support Obligations relating to the Contract; (vii) fail to give Adequate Assurance of Performance under Section 10.1 within 48 hours but at least one Business Day of a written request by the other party; (viii) not have paid any amount due the other party hereunder on or before the second Business Day following written Notice that such payment is due; or ix) be the affected party with respect to any Additional Event of Default; then the other party (the "Non-Defaulting Party") shall have the right, at its sole election, to immediately withhold and/or suspend deliveries or payments upon Notice and/or to terminate and liquidate the transactions under the Contract, in the manner provided in Section 10.3, in addition to any and all other remedies available hereunder.

10.3. If an Event of Default has occurred and is continuing, the Non-Defaulting Party shall have the right, by Notice to the Defaulting Party, to designate a Day, no earlier than the Day such Notice is given and no later than 20 Days after such Notice is given, as an early termination date (the "Early Termination Date") for the liquidation and termination pursuant to Section 10.3.1 of all transactions under the Contract, each a "Terminated Transaction". On the Early Termination Date, all transactions will terminate, other than those transactions, if any, that may not be liquidated and terminated under applicable law ("Excluded Transactions"), which Excluded Transactions must be liquidated and terminated as soon thereafter as is legally permissible, and upon termination shall be a Terminated Transaction and be valued consistent with Section 10.3.1 below. With respect to each Excluded Transaction, its actual termination date shall be the Early Termination Date for purposes of Section 10.3.1.

The parties have selected either "Early Termination Damages Apply" or "Early Termination Damages Do Not Apply" as indicated on the Base Contract.

Early Termination Damages Apply:

10.3.1. As of the Early Termination Date, the Non-Defaulting Party shall determine, in good faith and in a commercially reasonable manner, (i) the amount owed (whether or not then due) by each party with respect to all Gas delivered and received between the parties under Terminated Transactions and Excluded Transactions on and before the Early Termination Date and all other applicable charges relating to such deliveries and receipts (including without limitation any amounts owed under Section 3.2), for which payment has not yet been made by the party that owes such payment under this Contract and (ii) the Market Value, as defined below, of each Terminated Transaction. The Non-Defaulting Party shall (x) liquidate and accelerate each Terminated Transaction at its Market Value, so that each amount equal to the difference between such Market Value and the Contract Value, as defined below, of such Terminated Transaction(s) shall be due to the Buyer under the Terminated Transaction(s) if such Market Value exceeds the Contract Value and to the Seller if the opposite is the case; and (y) where appropriate, discount each amount then due under clause (x) above to present value in a commercially reasonable manner as of the Early Termination Date (to take account of the period between the date of liquidation and the date on which such amount would have otherwise been due pursuant to the relevant Terminated Transactions).

For purposes of this Section 10.3.1, "Contract Value" means the amount of Gas remaining to be delivered or purchased under a transaction multiplied by the Contract Price, and "Market Value" means the amount of Gas remaining to be delivered or purchased under a transaction multiplied by the market price for a similar transaction at the Delivery Point determined by the Non-Defaulting Party in a commercially reasonable manner. To ascertain the Market Value, the Non-Defaulting Party may consider, among other valuations, any or all of the settlement prices of NYMEX Gas futures contracts, quotations from leading dealers in energy swap contracts or physical gas trading markets, similar sales or purchases and any other bona fide third-party offers, all adjusted for the length of the term and differences in transportation costs. A party shall not be required to enter into a replacement transaction(s) in order to determine the Market Value. Any extension(s) of the term of a transaction to which parties are not bound as of the Early Termination Date (including but not limited to "evergreen provisions") shall not be considered in determining Contract Values and

Market Values. For the avoidance of doubt, any option pursuant to which one party has the right to extend the term of a transaction shall be considered in determining Contract Values and Market Values. The rate of interest used in calculating net present value shall be determined by the Non-Defaulting Party in a commercially reasonable manner.

Early Termination Damages Do Not Apply:

10.3.1. As of the Early Termination Date, the Non-Defaulting Party shall determine, in good faith and in a commercially reasonable manner, the amount owed (whether or not then due) by each party with respect to all Gas delivered and received between the parties under Terminated Transactions and Excluded Transactions on and before the Early Termination Date and all other applicable charges relating to such deliveries and receipts (including without limitation any amounts owed under Section 3.2), for which payment has not yet been made by the party that owes such payment under this Contract.

The parties have selected either "Other Agreement Setoffs Apply" or "Other Agreement Setoffs Do Not Apply" as indicated on the Base Contract.

Other Agreement Setoffs Apply:

Bilateral Setoff Option:

10.3.2. The Non-Defaulting Party shall net or aggregate, as appropriate, any and all amounts owing between the parties under Section 10.3.1, so that all such amounts are netted or aggregated to a single liquidated amount payable by one party to the other (the "Net Settlement Amount"). At its sole option and without prior Notice to the Defaulting Party, the Non-Defaulting Party is hereby authorized to setoff any Net Settlement Amount against (i) any margin or other collateral held by a party in connection with any Credit Support Obligation relating to the Contract; and (ii) any amount(s) (including any excess cash margin or excess cash collateral) owed or held by the party that is entitled to the Net Settlement Amount under any other agreement or arrangement between the parties.

Triangular Setoff Option:

10.3.2. The Non-Defaulting Party shall net or aggregate, as appropriate, any and all amounts owing between the parties under Section 10.3.1, so that all such amounts are netted or aggregated to a single liquidated amount payable by one party to the other (the "Net Settlement Amount"). At its sole option, and without prior Notice to the Defaulting Party, the Non-Defaulting Party is hereby authorized to setoff (i) any Net Settlement Amount against any margin or other collateral held by a party in connection with any Credit Support Obligation relating to the Contract; (ii) any Net Settlement Amount against any amount(s) (including any excess cash margin or excess cash collateral) owed by or to a party under any other agreement or arrangement between the parties; (iii) any Net Settlement Amount owed to the Non-Defaulting Party against any amount(s) (including any excess cash margin or excess cash collateral) owed by the Non-Defaulting Party or its Affiliates to the Defaulting Party under any other agreement or arrangement; (iv) any Net Settlement Amount owed to the Defaulting Party against any amount(s) (including any excess cash margin or excess cash collateral) owed by the Defaulting Party to the Non-Defaulting Party or its Affiliates under any other agreement or arrangement; and/or (v) any Net Settlement Amount owed to the Defaulting Party against any amount(s) (including any excess cash margin or excess cash collateral) owed by the Defaulting Party or its Affiliates to the Non-Defaulting Party under any other agreement or arrangement.

Other Agreement Setoffs Do Not Apply:

10.3.2. The Non-Defaulting Party shall net or aggregate, as appropriate, any and all amounts owing between the parties under Section 10.3.1, so that all such amounts are netted or aggregated to a single liquidated amount payable by one party to the other (the "Net Settlement Amount"). At its sole option and without prior Notice to the Defaulting Party, the Non-Defaulting Party may setoff any Net Settlement Amount against any margin or other collateral held by a party in connection with any Credit Support Obligation relating to the Contract.

10.3.3. If any obligation that is to be included in any netting, aggregation or setoff pursuant to Section 10.3.2 is unascertained, the Non-Defaulting Party may in good faith estimate that obligation and net, aggregate or setoff, as applicable, in respect of the estimate, subject to the Non-Defaulting Party accounting to the Defaulting Party when the obligation is ascertained. Any amount not then due which is included in any netting, aggregation or setoff pursuant to Section 10.3.2 shall be discounted to net present value in a commercially reasonable manner determined by the Non-Defaulting Party.

10.4. As soon as practicable after a liquidation, Notice shall be given by the Non-Defaulting Party to the Defaulting Party of the Net Settlement Amount, and whether the Net Settlement Amount is due to or due from the Non-Defaulting Party. The Notice shall include a written statement explaining in reasonable detail the calculation of the Net Settlement Amount, provided that failure to give such Notice shall not affect the validity or enforceability of the liquidation or give rise to any claim by the Defaulting Party against the Non-Defaulting Party. The Net Settlement Amount as well as any setoffs applied against such amount pursuant to Section 10.3.2, shall be paid by the close of business on the second Business Day following such Notice, which date shall not be earlier than the Early Termination Date. Interest on any unpaid portion of the Net Settlement Amount as adjusted by setoffs, 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 annum; or (ii) the maximum applicable lawful interest rate.

10.5. The parties agree that the transactions hereunder constitute a "forward contract" within the meaning of the United States Bankruptcy Code and that Buyer and Seller are each "forward contract merchants" within the meaning of the United States Bankruptcy Code.

10.6. The Non-Defaulting Party's remedies under this Section 10 are the sole and exclusive remedies of the Non-Defaulting Party with respect to the occurrence of any Early Termination Date. Each party reserves to itself all other rights, setoffs, counterclaims and other defenses that it is or may be entitled to arising from the Contract.

10.7. With respect to this Section 10, if the parties have executed a separate netting agreement with close-out netting provisions, the terms and conditions therein shall prevail to the extent inconsistent herewith.

SECTION 11. FORCE MAJEURE

11.1. Except with regard to a party's obligation to make payment(s) due under Section 7, Section 10.4, and Imbalance Charges under Section 4, neither party shall be liable to the other for failure to perform a Firm 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 in Section 11.2.

11.2. 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 of Firm transportation and/or storage by Transporters; (iv) acts of others such as strikes, lockouts or other industrial disturbances, riots, sabotage, insurrections or wars, or acts of terror; 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.

11.3. Neither party shall be entitled to the benefit of the provisions of Force Majeure to the extent performance is affected by any or all of the following circumstances: (i) the curtailment of interruptible or secondary Firm transportation unless primary, in-path, Firm transportation is also curtailed; (ii) the party claiming excuse failed to remedy the condition and to resume the performance of such covenants or obligations with reasonable dispatch; or (iii) economic hardship, to include, without limitation, Seller's ability to sell Gas at a higher or more advantageous price than the Contract Price, Buyer's ability to purchase Gas at a lower or more advantageous price than the Contract Price, or a regulatory agency disallowing, in whole or in part, the pass through of costs resulting from this Contract; (iv) the loss of Buyer's market(s) or Buyer's inability to use or resell Gas purchased hereunder, except, in either case, as provided in Section 11.2; or (v) the loss or failure of Seller's gas supply or depletion of reserves, except, in either case, as provided in Section 11.2. The party claiming Force Majeure shall not be excused from its responsibility for Imbalance Charges.

11.4. Notwithstanding anything to the contrary herein, the parties agree that the settlement of strikes, lockouts or other industrial disturbances shall be within the sole discretion of the party experiencing such disturbance.

11.5. 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.

11.6. Notwithstanding Sections 11.2 and 11.3, the parties may agree to alternative Force Majeure provisions in a Transaction Confirmation executed in writing by both parties.

SECTION 12. TERM

This Contract may be terminated on 30 Day's written Notice, but shall remain in effect until the expiration of the latest Delivery Period of any transaction(s). The rights of either party pursuant to Section 7.6, Section 10, Section 13, the obligations to make payment hereunder, and the obligation of either party to indemnify the other, pursuant hereto shall survive the termination of the Base Contract or any transaction.

SECTION 13. 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 OR IN A TRANSACTION, 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 14. MARKET DISRUPTION

If a Market Disruption Event has occurred then the parties shall negotiate in good faith to agree on a replacement price for the Floating Price (or on a method for determining a replacement price for the Floating Price) for the affected Day, and if the parties have not so agreed on or before the second Business Day following the affected Day then the replacement price for the Floating Price shall be determined within the next two following Business Days with each party obtaining, in good faith and from non-affiliated market participants in the relevant market, two quotes for prices of Gas for the affected Day of a similar quality and quantity in the geographical location closest in proximity to the Delivery Point and averaging the four quotes. If either party fails to provide two quotes then the average of the other party's two quotes shall determine the replacement price for the Floating Price. "Floating Price" means the price or a factor of the price agreed to in the transaction as being based upon a specified index. "Market Disruption Event" means, with respect to an index specified for a transaction, any of the following events: (a) the failure of the index to announce or publish information necessary for determining the Floating Price; (b) the failure of trading to commence or the permanent discontinuation or material suspension of trading on the exchange or market acting as the index; (c) the temporary or permanent discontinuance or unavailability of the index; (d) the temporary or permanent closing of any exchange acting as the index; or (e) both parties agree that a material change in the formula for or the method of determining the Floating Price has occurred. For the purposes of the calculation of a replacement price for the Floating Price, all numbers shall be rounded to three decimal places. If the fourth decimal number is five or greater, then the third decimal number shall be increased by one and if the fourth decimal number is less than five, then the third decimal number shall remain unchanged.

SECTION 15. MISCELLANEOUS

15.1. 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.

15.2. 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.

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

15.4. This Contract sets forth all understandings between the parties respecting each transaction subject hereto, and any prior contracts, understandings and representations, whether oral or written, relating to such transactions are merged into and superseded by this Contract and any effective transaction(s). This Contract may be amended only by a writing executed by both parties.

15.5. The interpretation and performance of this Contract shall be governed by the laws of the jurisdiction as indicated on the Base Contract, excluding, however, any conflict of laws rule which would apply the law of another jurisdiction.

15.6. 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.

15.7. There is no third party beneficiary to this Contract.

15.8. 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.

15.9. 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.

15.10. Unless the parties have elected on the Base Contract not to make this Section 15.10 applicable to this Contract, neither party shall disclose directly or indirectly without the prior written consent of the other party the terms of any transaction to a third party (other than the employees, lenders, royalty owners, 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, (ii) to the extent necessary for the enforcement of this Contract, (iii) to the extent necessary to implement any transaction, (iv) to the extent necessary to comply with a regulatory agency's reporting requirements including but not limited to gas cost recovery proceedings; or (v) to the extent such information is delivered to such third party for the sole purpose of calculating a published index. Each party shall notify the other party of any proceeding of which it is aware which may result in disclosure of the terms of any transaction (other than as permitted hereunder) and use reasonable efforts to prevent or limit the disclosure. The existence of this Contract is not subject to this confidentiality obligation. Subject to Section 13, the parties shall be entitled to all remedies available at law or in equity to enforce, or seek relief in connection with this confidentiality obligation. The terms of any transaction hereunder shall be kept confidential by the parties hereto for one year from the expiration of the transaction.

In the event that disclosure is required by a governmental body or applicable law, the party subject to such requirement may disclose the material terms of this Contract to the extent so required, but shall promptly notify the other party, prior to disclosure,

and shall cooperate (consistent with the disclosing party's legal obligations) with the other party's efforts to obtain protective orders or similar restraints with respect to such disclosure at the expense of the other party.

15.11. The parties may agree to dispute resolution procedures in Special Provisions attached to the Base Contract or in a Transaction Confirmation executed in writing by both parties

15.12. Any original executed Base Contract, Transaction Confirmation or other related document may be digitally copied, photocopied, or stored on computer tapes and disks (the "Imaged Agreement"). The Imaged Agreement, if introduced as evidence on paper, the Transaction Confirmation, if introduced as evidence in automated facsimile form, the recording, if introduced as evidence in its original form, and all computer records of the foregoing, if introduced as evidence in printed format, in any judicial, arbitration, mediation or administrative proceedings will be admissible as between the parties to the same extent and under the same conditions as other business records originated and maintained in documentary form. Neither Party shall object to the admissibility of the recording, the Transaction Confirmation, or the Imaged Agreement on the basis that such were not originated or maintained in documentary form. However, nothing herein shall be construed as a waiver of any other objection to the admissibility of such evidence.

DISCLAIMER: The purposes of this Contract are to facilitate trade, avoid misunderstandings and make more definite the terms of contracts of purchase and sale of natural gas. Further, NAESB does not mandate the use of this Contract by any party. **NAESB DISCLAIMS AND EXCLUDES, AND ANY USER OF THIS CONTRACT ACKNOWLEDGES AND AGREES TO NAESB'S DISCLAIMER OF, ANY AND ALL WARRANTIES, CONDITIONS OR REPRESENTATIONS, EXPRESS OR IMPLIED, ORAL OR WRITTEN, WITH RESPECT TO THIS CONTRACT OR ANY PART THEREOF, INCLUDING ANY AND ALL IMPLIED WARRANTIES OR CONDITIONS OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY, OR FITNESS OR SUITABILITY FOR ANY PARTICULAR PURPOSE (WHETHER OR NOT NAESB KNOWS, HAS REASON TO KNOW, HAS BEEN ADVISED, OR IS OTHERWISE IN FACT AWARE OF ANY SUCH PURPOSE), WHETHER ALLEGED TO ARISE BY LAW, BY REASON OF CUSTOM OR USAGE IN THE TRADE, OR BY COURSE OF DEALING. EACH USER OF THIS CONTRACT ALSO AGREES THAT UNDER NO CIRCUMSTANCES WILL NAESB BE LIABLE FOR ANY DIRECT, SPECIAL, INCIDENTAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES ARISING OUT OF ANY USE OF THIS CONTRACT.**

TRANSACTION CONFIRMATION
FOR IMMEDIATE DELIVERY

EXHIBIT A

Letterhead/Logo	Date: _____, ____ Transaction Confirmation #: _____			
This Transaction Confirmation is subject to the Base Contract between Seller and Buyer dated _____. 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.				
SELLER: _____ _____ Attn: _____ Phone: _____ Fax: _____ Base Contract No. _____ Transporter: _____ Transporter Contract Number: _____	BUYER: _____ _____ Attn: _____ Phone: _____ Fax: _____ Base Contract No. _____ Transporter: _____ Transporter Contract Number: _____			
Contract Price: \$_____/MMBtu or _____				
Delivery Period: Begin: _____, ____ End: _____, ____				
Performance Obligation and Contract Quantity: (Select One) <table style="width: 100%; border: none;"> <tr> <td style="width: 33%; vertical-align: top; padding: 5px;"> Firm (Fixed Quantity): _____ MMBtus/day <input type="checkbox"/> EFP </td> <td style="width: 33%; vertical-align: top; padding: 5px;"> Firm (Variable Quantity): _____ MMBtus/day Minimum _____ MMBtus/day Maximum subject to Section 4.2. at election of <input type="checkbox"/> Buyer or <input type="checkbox"/> Seller </td> <td style="width: 33%; vertical-align: top; padding: 5px;"> Interruptible: Up to _____ MMBtus/day </td> </tr> </table>		Firm (Fixed Quantity): _____ MMBtus/day <input type="checkbox"/> EFP	Firm (Variable Quantity): _____ MMBtus/day Minimum _____ MMBtus/day Maximum subject to Section 4.2. at election of <input type="checkbox"/> Buyer or <input type="checkbox"/> Seller	Interruptible: Up to _____ MMBtus/day
Firm (Fixed Quantity): _____ MMBtus/day <input type="checkbox"/> EFP	Firm (Variable Quantity): _____ MMBtus/day Minimum _____ MMBtus/day Maximum subject to Section 4.2. at election of <input type="checkbox"/> Buyer or <input type="checkbox"/> Seller	Interruptible: Up to _____ MMBtus/day		
Delivery Point(s): _____ (If a pooling point is used, list a specific geographic and pipeline location):				
Special Conditions: _____ _____ _____				
Seller: _____ By: _____ Title: _____ Date: _____	Buyer: _____ By: _____ Title: _____ Date: _____			

TRANSACTION CONFIRMATION PROPOSAL
FOR IMMEDIATE DELIVERY

Dodge City, Kansas	Effective Date : ____ __, 2018	
[FOR DISCUSSION PURPOSES ONLY, NOT FOR EXECUTION] This Transaction Confirmation is subject to that certain NAESB Base Contract and Special Conditions for Sale and Purchase of Natural Gas, between Seller and Buyer dated _____ (“Base Contract”). This Transaction Confirmation shall confirm and effectuate the agreement between Buyer and Seller regarding the purchase and sale of Gas under the following terms and conditions. Defined terms used but not defined herein shall have the meaning ascribed to them in the Base Contract.		
SELLER: City of Dodge City, Kansas P.O. Box 880, 806 N. 2nd Ave Dodge City, KS 67801 Attn: Phone: Fax:	BUYER: OCI Fuels Limited 660 Madison Ave, 19 th Floor New York, NY 10065 Attn: Kevin Struve Phone: 646-589-6180 Fax:	
Contract Price: The price per MMBtu shall be equal to \$12.00/MMBtu.		
Delivery Period: The “Delivery Period” shall be, for a term of one (1) year from Effective Date.		
Performance Obligation and Contract Quantity: Subject to the Special Conditions set forth below, Seller shall sell to Buyer and Buyer shall purchase from Seller up to 100% of RB produced by the Project and made available by Seller for sale to Buyer up to the MDV as described herein. The parties agree that a portion of the RB, subject to the amount produced by the high value anaerobic digester, may be delivered into storage. Such stored RB shall be confirmed at a mutually agreeable price pursuant to a separate Transaction Confirmation.		
Firm (Fixed Quantity): ____ 0 ____ MMBtus/day	Firm (Variable Quantity): <input checked="" type="checkbox"/> x (Subject to the Special Provisions) <input type="checkbox"/> EFP	Interruptible:
Delivery Point(s): Delivery Point shall be Seller’s interconnection with Northern Natural Gas. Buyer and Seller agree that Seller is solely responsible for all transportation and related pipeline charges, if any, for the transportation of RB to the Delivery Point(s) and Buyer is solely responsible for all transportation and related pipeline charges for the transportation of the RB at and from the Delivery Point(s), if any.		
Special Conditions: Product: Renewable Biogas (“RB”) as defined herein. Definitions: “ Maximum Daily Volume ” (“ MDV ”): 2,000 MMBtu. “ Project ” means the Waste Water Treatment Plant (WWTP) gas processing facilities owned and operated by the City of Dodge City, Kansas in Dodge City, Kansas. “ Renewable Biogas ” (“ RB ”) means Gas produced from the Project that: (i) is pipeline quality gas meeting the standards of 40 CFR 72.2 applicable to “natural gas” generated from the conversion of raw WWTP biogas (being a mixture of hydrocarbons that is a gas at 60 degrees Fahrenheit and 1 atmosphere of pressure that is produced through the conversion of organic matter present in the WWTP) at biogas processing facilities located at the WWTP compressed to more than 1 psi and injected into a commercial		

distribution system at the pressure required for injection by the distribution system; and

- (ii) contains all the environmental attributes associated with the use of a pipeline quality WWTP gas-derived fuel for transportation use, but excluding (a) any federal or state tax credits associated with the collection, production, transfer or sale of such WWTP gas, (b) any emission reduction credits required or available for the operation of a WWTP gas processing facility at the WWTP to convert collected raw WWTP biogas to pipeline quality gas standards, and (c) any credits or payments associated with the capture and destruction of methane or the reduction in or avoidance of Greenhouse Gas emissions at the WWTP, including emission reduction credits, verified emission reductions, voluntary emission reductions, offsets, allowances, voluntary carbon units, avoided compliance costs, emission rights and authorizations, and CO2 reduction and sequestration. For purposes hereof, "Greenhouse Gas" means carbon dioxide (CO2), methane (CH4), nitrous oxide (NO2), hydrofluorocarbons, perfluorocarbons, sulphur hexafluoride, or any other substance or combination of substances that may become regulated or designated as Greenhouse Gases under any federal, state or local law or regulation, or any emission reduction registry, trading system, or reporting or reduction program for Greenhouse Gas emission reductions that is established, certified, maintained, or recognized by any international, governmental (including U.N., federal, state, or local agencies), or non-governmental agency from time to time, in each case measured in increments of one metric ton of carbon dioxide equivalent. For avoidance of doubt if any of the above excluded environmental attributes are deemed to be associated with the creation of a Renewable Identification Number (RIN) under the Renewable Fuel Standard 2 ("RFS 2") as amended, such attributes shall instead of being excluded will be included in RB.

"RFS Program" means the Renewable Fuel Standard Program created under the Energy Policy Act of 2005 and expanded by the Energy Independence and Security Act of 2007 and implementing regulations, including without limitation, 40 C.F.R. Part 80, Subpart M, including RFS 2.

Additional Terms and Conditions

The parties acknowledge that the RB Contract Quantity sold hereunder is variable as it is dependent on the actual production from the Project and could potentially be zero. Thus, Seller shall have no Firm or interruptible minimum quantity requirements in connection with the sale and delivery of such RB; provided once RB is produced from the specified Project during the Delivery Period, Seller shall have an associated Firm RB Contract Quantity delivery and sale obligation to Buyer up to the MDV. If additional volumes of RB from the Project become available not otherwise committed to another party and Buyer has determined a need for additional RB to be utilized as a transportation fuel, the parties agree to work in good faith to discuss mutually acceptable terms for additional volumes of RB to be supplied to Buyer.

Additional Representations, Warranties and Covenants:

In addition to the representations and warranties set forth in the Base Contract, and notwithstanding any disclaimers of warranties set forth therein, Seller represents and warrants that (i) all Gas delivered to Buyer for purchase hereunder shall be RB; (ii) Seller has not sold or agreed to sell and will not during the Delivery Period of this Transaction Confirmation sell or agree to sell the RB Contract Quantity up to the MDV or the associated environmental attributes to any third party; and (iii) Seller holds the title to all RB and environmental attributes to be sold hereunder prior to delivery to Buyer free and clear of any liens or encumbrances or title defects and Seller will warrant and defend such title against the claims of all third parties.

Each party covenants not to create RINs, or enter into a contract with a third party to create RINs, that would be duplicative to RINs created herein or otherwise double count RINs produced as part of the Project.

Each party agrees to indemnify, defend and hold harmless the other party and its affiliates from all claims arising out of such party's breach of the representations and warranties set forth in this Transaction Confirmation.

The parties agree, at their own cost, to provide, produce and/or file such internally generated reports, generation and usage reports, information and affidavits and to retain all records for audit and inspection as may be required by any applicable state or federal program related to the use of RB for that program including without limitation the RFS 2.

Change in Law:

Upon the occurrence of a Change in Law Event, the parties agree to work in good faith to negotiate a revised Transaction Confirmation to reflect the impact of any such Change in Law Event. In the event the parties are unable to successfully renegotiate the terms of the Transaction Confirmation within forty-five (45) days of the effective date of the Change in Law Event, either party may terminate this Agreement upon giving the other party ten (10) days' prior written notice; provided that neither party may terminate this Agreement if the non-terminating party agrees to be responsible for the additional costs resulting from

the Change in Law Event. For the purposes of this provision, a "Change in Law Event" means the occurrence of any of the following: (a) the adoption or taking effect, expiration or repeal of any law, rule, regulation, treaty, including but not limited to modifications, repeal or expiration of the RFS Program, or any other exercise of government authority; or (b) the interpretation or application thereof by any government authority; or (c) making or issuance of any request, guideline or directive (whether or not having the force of law) by any governmental authority that results in the imposition of materially detrimental conditions, requirements, or costs upon a party with respect to the Transaction Confirmation as reasonably determined by the impacted party in good faith .

Seller: City of Dodge City, KS

By: _____

Title: _____

Date: _____

Buyer: OCI Fuels Limited

By: _____

Title: _____

Date: _____

DRAFT