



# KING COUNTY

1200 King County Courthouse  
516 Third Avenue  
Seattle, WA 98104

## Signature Report

September 20, 2016

### Ordinance 18363

Proposed No. 2016-0339.2

Sponsors Dembowski

1 AN ORDINANCE relating to the sale of biomethane and  
2 related environmental attributes held by the county;  
3 authorizing the wastewater treatment division to enter into  
4 an agreement for the sale of biomethane and environmental  
5 attributes associated with purified biomethane produced at  
6 the South wastewater treatment plant to IGI Resources, Inc.

7 STATEMENT OF FACTS:

- 8 1. The wastewater treatment division of the department of natural  
9 resources and parks operates three regional wastewater treatment facilities,  
10 including the South wastewater treatment plant in Renton, Washington,  
11 which treats approximately thirty billion gallons of wastewater each year.
- 12 2. Anaerobic digesters at the treatment plant generate methane digester  
13 biogas as part of the water and associated solid material treatment and  
14 purification processes.
- 15 3. Since 1988, the wastewater treatment division has been scrubbing  
16 impurities from the digester biogas to create biomethane, using some of  
17 the resulting pipeline quality gas for internal heating purposes, and  
18 injecting the surplus pipeline quality gas into the regional natural gas  
19 pipeline.

20 4. Since 1988, the pipeline quality gas commodity not consumed at the  
21 treatment plant has been sold to Puget Sound Energy, per a pipeline  
22 quality gas purchase and sales agreement between King County and Puget  
23 Sound Energy, most recently amended in 2005.

24 5. In addition to the energy content of the pipeline quality gas, the origin  
25 of the pipeline quality gas as a byproduct of the wastewater treatment  
26 process provides significant greenhouse-gas reduction benefits when  
27 compared to the consumption of fossil fuel-derived natural gas.

28 6. These environmental benefits, as an extension of the energy content,  
29 are recognized as environmental attributes. Environmental attributes refer  
30 to renewable energy or other characteristics of a resource that are  
31 distinguished from a commodity, and can have financial value related to  
32 both voluntary and mandatory environmental requirements.

33 7. Renewable Identification Numbers are environmental attributes that  
34 can be produced when a renewable energy source is consumed for an on-  
35 road transportation purpose, and have an economic value beyond the  
36 commodity value of the renewable fuel. Renewable Identification  
37 Numbers are defined under the Federal Renewable Fuel Standard,  
38 authorized by Congress under the Energy Policy Act of 2005 and  
39 expanded under the Energy Independence and Security Act of 2007,  
40 which was created in an effort to reduce greenhouse gas emissions and  
41 expand the nation's renewable fuels sector while reducing reliance on  
42 imported oil.

43 8. Under the Federal Renewable Fuel Standard legislation, obligated  
44 parties such as oil producers and importers must meet specific annual  
45 renewable fuel obligations for on-road transportation fuels, through  
46 Renewable Identification Number credits. The legislation has created  
47 demand for transportation fuels sourced from renewable sources,  
48 including biomethane sourced from wastewater treatment plants.

49 9. In 2014, in an attempt to determine if the Federal Renewable Fuel  
50 Standard would result in greater economic value for wastewater  
51 biomethane, the wastewater treatment division issued a request for  
52 proposals for the future sale of the combined pipeline quality gas  
53 commodity and any related environmental attributes of the biomethane.

54 10. Through a selection process, the wastewater treatment division  
55 selected IGI Resources, Inc., for the sale of the biomethane, specifying  
56 that the environmental attributes be monetized as Renewable Identification  
57 Numbers.

58 11. After certification under the Federal Renewable Fuel Standard,  
59 Renewable Identification Numbers will be generated when the biomethane  
60 generated at the South wastewater treatment plant is sold to IGI  
61 Resources, Inc., and consumed by local natural gas powered vehicles,  
62 resulting in renewable fuels being utilized for transportation purposes.

63 12. Under K.C.C. 4.56.250, sales of rights, title or interests in emissions  
64 credits, offsets or allowances or renewable energy certificates, credits,  
65 benefits, environmental air quality credits and any similar rights, title or

66 interests held by the county are exempt from the real and personal  
67 property requirements of K.C.C chapter 4.56 when unique circumstances  
68 are present. Such sales may be made in the best interests of the public to a  
69 person or entity through a direct agreement negotiated by the King County  
70 executive and approved by the King County council.

71 13. In accordance with K.C.C. 4.56.100.A.2. and K.C.C 4.56.250, unique  
72 circumstances are present for this agreement because the market for the  
73 sale of biomethane and the environmental attributes from biomethane is  
74 highly specialized and is subject to market variability that requires prompt  
75 action. The nature of these rights is unique in that they do not lend  
76 themselves to a sale to the highest responsible bidder at public auction or  
77 by sealed bid. While under such unique circumstances K.C.C. chapter  
78 4.56 authorizes the county to negotiate directly with a person or entity,  
79 nevertheless, the county conducted a competitive process to locate a  
80 qualified buyer for the combined sale of the biomethane and its  
81 environmental attributes to ensure that this agreement is in the best  
82 interests of the public.

83 14. The sale of the biomethane and related environmental attributes  
84 provide public benefit by increasing the revenue generated through the  
85 sale of the biomethane resource. The revenue from the sale of the  
86 biomethane and related environmental attributes will be used to reduce or  
87 offset greenhouse gas emissions greater than the reduction benefit that  
88 would come through direct wastewater treatment division ownership of

89 the environmental attributes, but only if the use of wastewater revenues is  
90 consistent with: chapter 35.58 RCW; Section 230.10.10 of the King  
91 County Charter; agreements for sewage disposal entered into between  
92 King County and component agencies; and other applicable county  
93 ordinance and state law restrictions. Revenue from the sale will also be  
94 used to expand energy efficiency and renewable energy generation efforts  
95 within the wastewater treatment division.

96 15. The investment of revenue from the sale of the biomethane and  
97 related environmental attributes to expand energy efficiency and  
98 renewable energy production and use within the wastewater treatment  
99 division and the resulting financial savings from these efficiencies has the  
100 effect of stabilizing rates.

101 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

102 **SECTION 1. Findings:** The King County council has determined, and therefore  
103 finds, that unique circumstances make a negotiated direct sale of the sale of biomethane  
104 and the related environmental attributes at the South Wastewater Treatment Plant is in the  
105 best interests of the public.

106 **SECTION 2.** The King County executive is hereby authorized to execute a base  
107 contract for sale and purchase of natural gas and all related documents with IGI  
108 Resources, Inc., substantially in the form of Attachment A to this ordinance.

109 **SECTION 3.** Moneys from the sale of biomethane and environmental attributes  
110 under section 2 of this ordinance shall be allocated to the originating division. The  
111 revenue from the biomethane and environmental attributes shall be used to further the

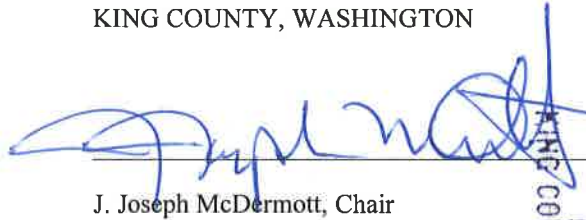
112 goals outlined in the 2015 Strategic Climate Action Plan in relation to the operations and  
113 capital improvement program of the wastewater treatment division, with the direct result  
114 of offsetting carbon emissions in excess of the reduction benefit that would come through  
115 direct wastewater treatment division ownership of the environmental attributes. Revenue

116 beyond that needed for the annual carbon emissions offsets may be spent on rate  
117 stabilization.  
118

Ordinance 18363 was introduced on 7/11/2016 and passed by the Metropolitan King County Council on 9/19/2016, by the following vote:


Yes: 9 - Mr. von Reichbauer, Mr. Gossett, Ms. Lambert, Mr. Dunn,  
Mr. McDermott, Mr. Dembowski, Mr. Upthegrove, Ms. Kohl-Welles  
and Ms. Balducci  
No: 0  
Excused: 0

KING COUNTY COUNCIL  
KING COUNTY, WASHINGTON



J. Joseph McDermott, Chair

ATTEST:



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Anne Noris, Clerk of the Council

RECEIVED  
2016 SEP 28 PM 1:15  
KING COUNTY COUNCIL  
CLERK

APPROVED this 27 day of SEPTEMBER 2016.



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Dow Constantine, County Executive

**Attachments:** A. Base Contract for Sale and Purchase of Natural Gas, including Special Provisions, Biogas Special Provisions (“Addendum”) and Transaction Confirmation for Biogas, dated September 1, 2016

September 1, 2016

Execution Copy

**Base Contract for Sale and Purchase of Natural Gas**

This Base Contract is entered into as of the Effective Date. The parties to this Base Contract are the following:

<b>PARTY A</b> IGI Resources, Inc.	<b>PARTY NAME</b>	<b>PARTY B</b> King County, through its Department of Natural Resources and Parks -- Wastewater Treatment Division
PO Box 6488 Boise, ID 83707-6488	<b>ADDRESS</b>	Wastewater Treatment Division 201 S. Jackson St., Suite 500 Seattle, WA 98104
<u>www.igires.com</u>	<b>BUSINESS WEBSITE</b>	<u>www.kingcounty.gov/environment/wtd.aspx</u>
	<b>CONTRACT NUMBER</b>	
19-429-0953	<b>D-U-N-S® NUMBER</b>	135108934
<input checked="" type="checkbox"/> US FEDERAL: 82-0401137 <input type="checkbox"/> OTHER:	<b>TAX ID NUMBERS</b>	<input checked="" type="checkbox"/> US FEDERAL: 91-6001327 <input type="checkbox"/> OTHER:
Idaho	<b>JURISDICTION OF ORGANIZATION</b>	Washington
<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: _____	<b>COMPANY TYPE</b>	<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>a home rule charter county and political subdivision of the State of Washington</u>
BP Corporation North America, Inc.	<b>GUARANTOR (IF APPLICABLE)</b>	
<b>CONTACT INFORMATION</b>		
ATTN: _____ TEL#: _____ FAX#: _____ EMAIL: _____	▪ <b>COMMERCIAL</b>	ATTN: <u>David Broustis</u> TEL#: <u>206-477-4544</u> EMAIL: <u>david.broustis@kingcounty.com</u>
ATTN: <u>Customer Service Department</u> TEL#: <u>208-395-0520</u> FAX#: <u>208-395-0531</u> EMAIL: <u>igioptions@bp.com</u>	▪ <b>SCHEDULING</b>	ATTN: <u>Rick Butler</u> TEL#: <u>206-263-1751</u> EMAIL: <u>rick.butler@kingcounty.gov</u>
ATTN: <u>Natural Gas Marketing - Contract Services</u> TEL#: <u>713-323-2000</u> FAX#: <u>713-323-0203</u> EMAIL: _____	▪ <b>CONTRACT AND LEGAL NOTICES</b>	ATTN: <u>David Broustis</u> TEL#: <u>206-477-4544</u> EMAIL: <u>david.broustis@kingcounty.com</u>
ATTN: <u>Natural Gas Marketing - Credit</u> TEL#: <u>208-395-0500</u> FAX#: <u>208-395-0530</u> EMAIL: <u>karl.wagner@bp.com</u>	▪ <b>CREDIT</b>	ATTN: <u>Max Foster</u> TEL#: <u>206-477-5382</u> FAX#: <u>206-681-1741</u> EMAIL: <u>max.foster@kingcounty.gov</u>
ATTN: <u>Natural Gas Marketing - Confirmations</u> TEL#: <u>208-395-0500</u> FAX#: <u>281-227-8470</u> EMAIL: _____	▪ <b>TRANSACTION CONFIRMATIONS</b>	ATTN: <u>David Broustis</u> TEL#: <u>206-477-4544</u> EMAIL: <u>david.broustis@kingcounty.gov</u>
<b>ACCOUNTING INFORMATION</b>		
ATTN: <u>Natural Gas Marketing - Accounting</u> TEL#: <u>208-395-0500</u> FAX#: <u>208-395-0536</u> EMAIL: _____	▪ <b>INVOICES</b> ▪ <b>PAYMENTS</b> ▪ <b>SETTLEMENTS</b>	ATTN: <u>Francesca Ho- Revenue &amp; Accounts Receivable Section</u> TEL#: <u>206-477-5521</u> FAX#: <u>206-684-1741</u> EMAIL: <u>francesca.ho@kingcounty.gov</u>
BANK: <u>JP Morgan Chase Bank, New York, NY</u> ABA: _____ ACCT: _____ OTHER DETAILS: <u>For the Account of IGI Resources, Inc.</u>	<b>WIRE TRANSFER NUMBERS (IF APPLICABLE)</b>	BANK: <u>U.S. Bank 1420 Fifth Avenue, 10th FL, Seattle, WA 98101</u> ABA: _____ ACCT: _____ OTHER DETAILS: <u>Include details regarding purpose of wire or ACH</u>
BANK: <u>JP Morgan Chase Bank, New York, NY</u> ABA: _____ ACCT: _____ OTHER DETAILS: <u>For the Account of IGI Resources, Inc.</u>	<b>ACH NUMBERS (IF APPLICABLE)</b>	BANK: <u>U.S. Bank 1420 Fifth Avenue, 10th FL, Seattle, WA 98101</u> ABA: _____ ACCT: _____ OTHER DETAILS: <u>Include details regarding purpose of wire or ACH</u>
ATTN: <u>Bank of America-c/o Remittance Services Lockbox 12124</u> ADDRESS: <u>12124 Collections Center Drive Chicago, IL 60693</u>	<b>CHECKS (IF APPLICABLE)</b>	ATTN: <u>King County Treasury Operations/CCP</u> ADDRESS: <u>Finance and Business Operations Division</u> <u>King County Administration Building 500 4<sup>th</sup> AVE #600</u> <u>Seattle, WA 98104-2387</u>




**Base Contract for Sale and Purchase of Natural Gas**

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.

<b>Section 1.2</b> Transaction Procedure <input type="checkbox"/> Oral (default) OR <input checked="" type="checkbox"/> Written	<b>Section 10.2</b> Additional Events of Default <input checked="" type="checkbox"/> No Additional Events of Default (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>
<b>Section 2.7</b> Confirm Deadline <input checked="" type="checkbox"/> 2 Business Days after receipt (default) OR <input type="checkbox"/> 5 Business Days after receipt	
<b>Section 2.8</b> Confirming Party <input type="checkbox"/> Seller (default) OR <input type="checkbox"/> Buyer <input checked="" type="checkbox"/> IGI Resources, Inc.	
<b>Section 3.2</b> Performance Obligation <input checked="" type="checkbox"/> Cover Standard (default) OR <input type="checkbox"/> Spot Price Standard	<b>Section 10.3.1</b> Early Termination Damages <input checked="" type="checkbox"/> Early Termination Damages Apply (default) OR SEE SPECIAL PROVISIONS 3.6. AND 10.3.1 <input checked="" type="checkbox"/> Early Termination Damages Do Not Apply
<i>Note: The following Spot Price Publication applies to both of the immediately preceding.</i>	
<b>Section 2.31</b> Spot Price Publication <input checked="" type="checkbox"/> Gas Daily Mldpoint (default) OR <input type="checkbox"/> _____	<b>Section 10.3.2</b> Other Agreement Setoffs <input checked="" type="checkbox"/> Other Agreement Setoffs Apply (default) <input checked="" type="checkbox"/> Bilateral (default) <input type="checkbox"/> Triangular OR <input type="checkbox"/> Other Agreement Setoffs Do Not Apply
<b>Section 6</b> Taxes <input checked="" type="checkbox"/> Buyer Pays At and After Delivery Point (default) OR <input type="checkbox"/> Seller Pays Before and At Delivery Point	
<b>Section 7.2</b> Payment Date <input type="checkbox"/> 25 <sup>th</sup> Day of Month following Month of delivery (default) OR <input checked="" type="checkbox"/> 20 <sup>th</sup> Day of Month following Month of delivery	<b>Section 15.5</b> Choice Of Law New York; provided that matters relating to the legal power and authority of Party B under this Contract will be governed by the laws of Washington
<b>Section 7.2</b> Method of Payment <input type="checkbox"/> Wire transfer (default) <input checked="" type="checkbox"/> Automated Clearinghouse Credit (ACH) <input type="checkbox"/> Check	<b>Section 15.10</b> Confidentiality <input checked="" type="checkbox"/> Confidentiality applies (default) OR <input type="checkbox"/> Confidentiality does not apply
<b>Section 7.7</b> Netting <input checked="" type="checkbox"/> Netting applies (default) OR <input type="checkbox"/> Netting does not apply	
<input checked="" type="checkbox"/> Special Provisions Number of sheets attached: 11 Addendum(s): Blogas Supply Addendum – Vehicle Fuel Segment – Supply side	

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

IGI RESOURCES, INC.	PARTY NAME	KING COUNTY, THROUGH ITS DEPARTMENT OF NATURAL RESOURCES AND PARKS -- WASTEWATER TREATMENT DIVISION
	SIGNATURE	
By: Randy Schultz	PRINTED NAME	By: Gunars Sreifers
President	TITLE	Acting Division Director
September 1, 2016	DATE	_____, 2016

## 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.		
<b>SELLER:</b> _____ _____ Attn: _____ Phone: _____ Fax: _____ Base Contract No. _____ Transporter: _____ Transporter Contract Number: _____	<b>BUYER:</b> _____ _____ Attn: _____ Phone: _____ Fax: _____ Base Contract No. _____ Transporter: _____ Transporter Contract Number: _____	
Contract Price: \$ ____/MMBtu or _____		
Delivery Period: Begin: _____ End: _____		
<b>Performance Obligation and Contract Quantity: (Select One)</b>		
<b>Firm (Fixed Quantity):</b> _____ MMBtus/day <input type="checkbox"/> EFP	<b>Firm (Variable Quantity):</b> _____ MMBtus/day Minimum _____ MMBtus/day Maximum subject to Section 4.2. at election of <input type="checkbox"/> Buyer or <input type="checkbox"/> Seller	<b>Interruptible:</b> 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: _____	

Ordinance 18363

Execution Copy

**SPECIAL PROVISIONS ATTACHED TO AND FORMING PART OF  
THE BASE CONTRACT FOR SALE AND PURCHASE OF NATURAL GAS**

**Dated as of the Effective Date**

**By and between**

**IGI Resources, Inc. ("Party A")**

**And**

**King County, through its Department of Natural Resources and Parks -- Wastewater Treatment Division ("Party B")**

**Section 1. Purpose and Procedures**

Add the following before the "." at the end of the second sentence in Section 1.4:

"; provided, further that the party responsible for obtaining the consent of its agents and employees to such recordings shall indemnify, defend and hold the other party harmless from any and all losses, liabilities, claims, damages, judgments, costs and expenses, including but not limited to reasonable attorneys' fees and costs of court, arising from or out of such party's failure to obtain the consent of its agents and employees to such recordings."

**Section 2. Definitions**

Definition of "Payment Date" in Section 2.27 shall be deleted and replaced with the following:

"Payment Date" shall mean a date, as indicated on the Base Contract, on or before which payment is due from one party to the other as set forth in Section 7."

Add the following at the end of Section 2:

2.36 "Governmental Requirement(s)" shall mean any applicable laws, statutes, ordinances, orders, rules, regulations, rulings, decrees, or policies having the effect of law and/or official governmental actions, whether of a federal, state, local or tribal nature.

2.37 "New Taxes" shall mean any Taxes that (i) were not in effect on the date the transaction was entered into, or (ii) were not imposed by any taxing entity on a transaction on the date such transaction was entered into.

2.38 "Regulatory Event" shall mean a Governmental Requirement(s) (including but not limited to ones related to market rate caps (whether temporary or permanent), regulatory market requirements (such as those occurring under Dodd Frank), New Taxes, climate change assessments, environmental regulations, export/import assessments, etc.) promulgated after the date of a transaction, which renders a party (the "Affected Party") unable to continue to perform, either in whole or in part, because (i) such transaction is illegal or unenforceable, or (ii) the Government Requirement(s) materially changes the commercial and economic circumstances existing as of the date of the transaction and as a result negatively and significantly impacts the Affected Party's original economic expectations under the transaction.

2.39 "Taxes" shall mean any and all taxes, charges, licenses, levies, fees, penalties, permits, assessments, charges, or increases on any of the foregoing, (whether sales, use, gross receipts, excise, customs, duties or otherwise) which are claimed to be due by any federal, state, local or tribal government or any other governmental agency having jurisdiction to do so. The term "Taxes" shall not include any employment or franchise taxes imposed upon either party, nor any tax based upon a party's income or net worth."

2.40 "Effective Date" shall mean the date on which Party B executes the Base Contract as defined in Section 2.4 of the General Terms and Conditions Base Contract for Sale and Purchase of Natural Gas."

**Section 3. Performance Obligation**

Add the following as new Sections 3.5 and 3.6:

"3.5 There shall be no Fixed Price transactions under this Contract unless the parties agree otherwise. "Fixed Price" means, a Contract Price for a transaction that is expressed as a flat dollar amount for the Month of delivery, excluding any transactions that have been entered into after the last trading day (as defined by the NYMEX) for the applicable Month. Subject to the foregoing exclusion, "Fixed Price" also includes any transaction containing a Contract Price or a component of a Contract Price that has been converted from a floating price mechanism (i.e., a NYMEX/first of the month index priced component with a fixed basis component) to a flat dollar amount for the Month of delivery, either upon the mutual agreement of the parties or as a result of a party exercising a pricing "trigger" option in the Contract. For the purpose of clarity, the parties agree that all transactions providing for puts, calls, collars, swaptions, caps, and floors shall constitute transactions for a Fixed Price.

Add the following as Section 3.6:

"3.6 If a Regulatory Event occurs and the Affected Party is unable, after using commercially reasonable efforts, to perform or avoid the negative and significant economic impacts of such Regulatory Event, as applicable, the Affected Party shall be entitled to terminate and liquidate the transaction(s) affected by such Regulatory Event (the "Affected Transaction(s)"), subject to the following conditions:

(i) The Affected Party must give the other party at least ten (10) Business Days' prior Notice of its intent to terminate and liquidate the Affected Transaction(s). The Notice shall be the "Regulatory Event Notice to Terminate", and shall specify the Early Termination Date, which shall be not



more than twenty (20) Business Days after the date of the Regulatory Event Notice to Terminate. If Early Termination Damages apply to a Transaction Confirmation, on the Early Termination Date, the Affected Party shall determine damages in accordance with Section 10 of the Contract; provided however, that any and all Costs otherwise allowed under Section 10.3.1, shall be excluded from the calculation, and provided further that the Market Value for each Terminated Transaction shall be determined by using the mid-point, as it may be estimated, between the bid price and the ask price for each Terminated Transaction; and

(ii) Nothing herein shall prevent the other party from disputing whether the Affected Party has the right to terminate and liquidate the Affected Transaction(s)."

**Section 6. Taxes**

Add 6.1 before "Seller" of "Buyer Pays At and After the Delivery Point:" in Section 6. The last two sentences of Section 6 shall be deleted and replaced with the following:

"Seller bears all responsibility to make disbursements to all interest owners, and is responsible for any severance tax reporting and/or payment associated with the gas purchased hereunder. Where law prescribes that Buyer may be required to report and pay severance tax, Seller shall take all steps necessary to enable such Seller to report and/or pay the severance tax, including making any necessary filings or showings before taxing authorities administering such severance tax. Pursuant to any approval granted by any taxing authority to absolve Buyer of severance tax reporting and/or payment responsibilities, Seller shall report and/or pay the severance tax for the entire term of this contract, unless written consent of Buyer is first obtained."

Add the following as new Section 6.2 and 6.3 to "Buyer Pays At and After the Delivery Point" of Section 6:

**6.2 Gross Receipts and Consumption, and Compensating Taxes.** For clarity, the Contract Price does not include any applicable state or local, gross receipts, compensating, utility, transaction privilege, sales or use tax which may be assessed as a result of sales or use of Gas hereunder, whether measured by quantity or revenues ("Gross Receipts" or "Compensating Tax"). If there is such a Gross Receipts and/or Compensating Tax, either of which being applicable to that quantity of Gas sold to or used by Buyer hereunder, Seller will invoice Buyer and Buyer will pay Seller the amount of the Gross Receipts or Compensating Tax and Seller will remit same as required by the applicable law.

**6.3 Protest and Payment.** 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, except to the extent either party has filed, or provides prior notice to the other party that it will timely file, a good faith protest, contest, dispute or complaint with the taxing authority or applicable court with jurisdiction, which tolls the requirement to pay such Taxes. Any party is entitled to make such good faith protests, contests, disputes or complaints with the applicable taxing authority or applicable court with jurisdiction or to file for a request for refund for such Taxes already paid in a timely manner as to any Taxes that it is responsible to pay or remit or for which it is responsible to pay or reimburse the other party. In the event either party makes such filings, the other party shall cooperate with such filing party by providing any relevant information within that party's possession, which will support the filing party's filing upon request by and as specified by the filing party. Upon the issuance by the taxing authority or court of a final, non-appealable order, which lifts the tolling of an obligation to pay and requires payment of the applicable Taxes, and absent a stay of such order, the responsible party shall either pay directly to the applicable taxing authority, or reimburse the other party for, such Taxes and any other amounts (including interest) required by such order. Any party entitled to an exemption from any such Taxes or charges shall furnish the other party any necessary documentation thereof. Each party shall provide reasonable cooperation to the other party in complying with the provisions of this Section 6."

**7. Billing, Payment and Audit**

In Section 7.6, add the following at the end of the next to last sentence before the "":

"; provided, however, that the finality of all invoices and billings shall not apply to (i) Taxes, (ii) any adjustments made by Transporter(s) under the terms of its applicable tariff or (iii) payments related to Green Attributes such as RINs or LCPS Credits, and the responsible party under the Contract shall continue to be responsible for such amounts until five (5) years after the Month of Gas delivery".

**Section 8. Title, Warranty, and Indemnity**

Section 8.3 shall be amended by (i) inserting "(i)" before the word "claims" in the second line, and (ii) inserting ", or (ii) Seller's failure to timely report and pay any severance taxes as required under Section 6.1 of the Contract" before the "." at the end of the first sentence.

Delete Section 8.4 in its entirety.

**Section 9. Notices**

In the first sentence of Section 9.4 delete the words "commercially acceptable".

**Section 10. Financial Responsibility**

Section 10.2 shall be amended by (i) deleting the words "or its Guarantor" in the first line of such Section; (ii) deleting the word "or" before "(ix)" in such Section; and (iii) adding the following immediately after the ";" at the end of subclause (ix) of such Section:

"(x) fail to perform or breach any other material obligation under this Contract (except to the extent such failure constitutes a separate Event of Default, and except for such party's obligations to deliver or receive Gas (the exclusive remedy for which is provided in Section 3)) if such failure is not remedied within seven (7) Business Days after receipt of written notice; (xi) consolidate or amalgamate with, or merge with or into, or transfer all or substantially all of its assets to, another entity and, at the time of such consolidation, amalgamation, merger or transfer (a) the resulting, surviving or transferee entity fails to assume all the obligations of such party under this Contract to which it or its predecessor was a party by operation of law or pursuant to an agreement reasonably satisfactory to the other party, (b) the

benefits of any credit support provided under this Contract as a result of a Credit Support Obligation fail to extend to the performance by such resulting, surviving or transferee entity of its obligations hereunder, or (c) the resulting entity's creditworthiness (after giving effect to the benefits of any credit support provided under this Contract) is materially weaker than that of such party or Guarantor immediately prior to such action; (xii) with respect to a party's Guarantor, (A) any event referenced in clauses (i), (ii), (iii), (iv), or (v) shall have occurred with respect to any Guarantor; (B) the failure of Guarantor's guaranty to be in full force and effect to cover all transactions entered into under this Contract prior to the satisfaction of all obligations of such party under each transaction to which such guaranty shall relate without the prior written consent of the other party; or (C) such Guarantor shall repudiate, disaffirm, disclaim, or reject, in whole or in part, or challenge the validity of any guaranty related to this Contract; or (xiii) breach of any material representation or warranty under this Contract;"

Add the following at the end before the "." in the last sentence of Section 10.2:  
"provided that no suspension of performance shall continue for more than twenty (20) Days unless an Early Termination Date has been declared and the Defaulting Party given Notice thereof in accordance with Section 10.3."

In Section 10.3.1:

- (i) The preamble to Section 10.3 shall be deleted in its entirety and replaced with the following:  
"The parties have selected both "Early Termination Damages Apply" and "Early Termination Damages Do Not Apply" on the election choices on page 2 of the Base Contract for Sale and Purchase of Natural Gas. Early Termination Damages shall apply to Gas Transaction Confirmations and Early Termination Damages shall not apply to Biogas Transaction Confirmations.
- (ii) Replace the words "(whether or not then due)" with the words "(whether or not yet invoiced or due)" in the second line;
- (iii) Add the following as the second paragraph of Section 10.3.1, "Early Termination Damages Apply":  
"The Non-Defaulting Party shall also aggregate the costs that the Non-Defaulting Party incurs from the cancellation and termination of each Terminated Transaction, and reasonable attorneys' fees and other reasonable litigation costs incurred in connection with enforcing its rights under this Contract (collectively "Costs") and such Costs shall be due to the Non-Defaulting Party."

In the second sentence of Section 10.3.2 "Other Agreements Setoffs Apply, Bilateral Setoff Option", delete the words "and without prior Notice to the Defaulting Party".

Add the following at the end of Section 10.3.2, "Other Agreements Setoffs Apply, Bilateral Setoff Option":

"The obligations of the Non-Defaulting Party and the Defaulting Party under this Contract or otherwise in respect of such amounts shall be deemed satisfied and discharged to the extent of any such Setoff. The Non-Defaulting Party will give the Defaulting Party Notice of any Setoff effected under this section provided that failure to give such notice shall not affect the validity of the Setoff. Nothing in this paragraph shall be deemed to create a charge or other security interest. The rights provided by this Section are in addition to and not in limitation of any other right or remedy (including any right to Setoff, counterclaim, or otherwise withhold payment) to which a party may be entitled (whether by operation of law, contract or otherwise). "Setoff" as used herein means setoff, offset, combination of accounts, right of retention or withholding or similar right or requirement to which the Non-Defaulting Party is entitled or subject to (whether arising under this Contract, another contract, applicable law or otherwise) that is exercised by, or imposed on, the Non-Defaulting Party."

Section 10.4 is hereby amended by

- (i) Deleting the second sentence and replacing it with the following:  
"The Notice shall include a written statement explaining in reasonable detail the calculation of the Net Settlement Amount, and the reduction of such amount(s) by (a) the application of any margin, collateral or security by the Non-Defaulting Party against such Net Settlement Amount, or (b) any Setoffs allowed under the terms of this Contract (such adjusted amount after the exercise of rights under (a) or (b) being defined as the "Final Settlement Amount");"
- (ii) Adding the following sentence after the insert in (i) above:  
"The Non-Defaulting Party's failure to give such Notice of the Net Settlement Amount/Final Settlement Amount calculations shall not affect the validity or enforceability of the liquidation and termination of the Terminated Transaction, or give rise to any claim by the Defaulting Party against the Non-Defaulting Party with respect to the Non-Defaulting Party becoming the Defaulting Party due to its failure to timely fulfill such obligation.";
- (iii) Replacing "second" in the sixth line with "fifth";
- (iv) Adding the following as Section 10.4.1:  
"10.4.1. Notwithstanding anything herein to the contrary, if the Non-Defaulting Party owes the Net Settlement Amount/Final Settlement Amount to the Defaulting Party, the Non-Defaulting Party shall not be required to pay to the Defaulting Party the Net Settlement Amount/Final Settlement Amount, nor shall any interest accrued thereon be owed on such amount, until (i) the Non-Defaulting Party receives confirmation satisfactory to it, in its reasonable discretion, that all other obligations of any kind whatsoever of the Defaulting Party to make any payments to the Non-Defaulting Party under this Contract and transactions hereunder, or under any other agreements between the parties, which are due and payable, have been paid (or netted, Setoff, recouped, or the like) in full; and (ii) the Defaulting Party executes a release in a form satisfactory to the Non-Defaulting Party that acts as the final resolution of the amounts due and owing as the Net Settlement Amount/Final Settlement Amount under the



terms of this Contract and transactions hereunder. To the extent that either party believes that bankruptcy court approval of the release is required, the Non-Defaulting Party may withhold payment of the Net Settlement Amount/Final Settlement Amount until such time as appropriate court approval has been obtained and is final and non-appealable.”; and

- (v) Adding the following as Section 10.4.2.:
- “10.4.2. In the event the Defaulting Party disputes the calculation of the Net Settlement Amount/Final Settlement Amount, such party shall notify the other Non-Defaulting Party of such dispute within five (5) Business Days of the date the Non-Defaulting Party provides the Notice required under this Section 10.4 to the Defaulting Party; provided, further that as soon as commercially reasonable thereafter, the Defaulting Party shall provide a statement showing its calculation of the Net Settlement Amount/Final Settlement Amount. In the event of a dispute as to the Net Settlement Amount/Final Settlement Amount, the Defaulting Party shall, if applicable, within the time prescribed in Section 10.4, pay the undisputed amount of the Net Settlement Amount/Final Settlement Amount to the Non-Defaulting Party. If the parties have not been able to resolve their dispute within five (5) Business Days of receipt of Notice of such dispute, the parties shall be entitled to pursue their respective rights and remedies in a court of competent jurisdiction. During the five (5) Business Day period, the parties shall exchange, in addition to the detailed information otherwise required under the Contract supporting their initial Net Settlement Amount/Final Settlement Amount calculations, such other information, including quotations, that such party is utilizing to justify its position. Each party shall submit its detailed calculation of the Net Settlement Amount/Final Settlement Amount, as the same may be revised by the parties after the exchange of the information required hereunder.”

Delete Section 10.5 in its entirety and replace with the following:

“10.5 Each party further represents and warrants to the other party that (i) this Base Contract and all transaction(s) governed by the Base Contract constitute “forward contracts” and/or “swap agreements” within the meaning of the United States Bankruptcy Code (the “Code”); (ii) it is a “forward contract merchant” within the meaning of the Code with respect to any transactions that constitute “forward contracts”; (iii) it is a “swap participant” within the meaning of the Code with respect to any transactions that constitute “swap agreements”; (iv) the Contract is a “master netting agreement for purposes of the Code; (v) it is a “master netting agreement participant” for purposes of the Code; (vi) all payments made or to be made on its behalf pursuant to the Contract, including the application by a party of any collateral or security to any amounts due and owing to such party, constitute “settlement payments” within the meaning of the Code; (vii) all transfers of collateral or security by it or on its behalf under the Contract constitute “margin payments” within the meaning of the Code; and (viii) its rights under Section 10, “Financial Responsibility”, of the Contract constitute a “contractual right to liquidate, terminate or accelerate” or “contractual right to liquidate, terminate, accelerate, or offset under a master netting agreement and across contracts” the transactions within the meaning of the Code. Each party further agrees that the other party is not a “utility” as such term is used in 11 U.S.C. Section 366, and each party agrees to waive and not to assert the applicability of the provisions of 11 U.S.C. Section 366 in any bankruptcy proceeding involving such party. In addition, each party agrees that, for any Gas actually consumed (rather than resold) by such party, if Gas is not delivered pursuant to this Contract, the local gas distribution utility for such party is the provider of last resort and can supply such party’s Gas consumption needs.”

Add the following as Section 10.8:

“10.8 From and after the date of this Contract, Party A shall provide and maintain for the benefit of Party B a guaranty in the amount of one million U.S. dollars (\$1,000,000) in form and substance reasonably acceptable to Party B from a Guarantor reasonably acceptable to Party B.”

**Section 11. Force Majeure**

In Section 11.2:

- (i) Delete the “and” in front of “(v)”;
- (ii) Insert the following before the period at the end of the first sentence: “and (vi) the occurrence of a Regulatory Event. If a party declares an event of Force Majeure based upon the event described in (vi), the event of Force Majeure shall terminate upon the earlier to occur of (a) the time the declaring party provides Notice that there is no longer an event of Force Majeure; (b) the time a party liquidates and terminates the Affected Transaction(s) on the Early Termination Date in accordance with Section 3.6, or (c) the expiration of twenty (20) Business Days after the claiming party provides Notice of the event of Force Majeure, unless a Regulatory Event Notice to Terminate has been provided in accordance with Section 3.6.”; and
- (iii) Insert the following at the end of Section 11.2 “To the extent an event of Force Majeure occurs:
  - (a) prior to curtailing or interrupting any transaction for a Firm obligation, Seller/Buyer shall first curtail or interrupt its interruptible delivery or purchase obligations, as applicable, and
  - (b) Seller or Buyer will treat all similarly situated Firm customers in a fair and reasonable manner by allocating the supply or purchase of Firm Gas, as applicable, on a pro rata basis.”

Add the following as Section 11.7:

“11.7 Without restricting the generality of the foregoing, if an event of Force Majeure occurs, the party affected may, in its sole discretion and without notice to the other party, determine not to make a claim of Force Majeure and to waive its rights hereunder as they would apply to such event. Such determination or waiver shall not preclude the affected party from claiming Force Majeure in respect of any subsequent event, including any event that is substantially similar to the event in respect of which such determination or waiver is made.”

Add the following as Section 11.8:

"11.8 If an event of Force Majeure impairs or prevents Seller from delivering or Buyer from receiving Gas under this Contract and such event of Force Majeure continues for a continuous period of time greater than one hundred and eighty (180) Days, either party may terminate this Contract without liability on the part of either party for or as a result of such termination; provided, however, that no such termination shall relieve either party of any liability incurred prior to such termination."

**Section 12. Term**

Delete the second sentence and replace it with the following:

"The rights of either party pursuant to: (i) Section 7, (ii) Section 10, (iii) Section 13, (iv) Section 14, (v) Section 15, (vi) the obligations to make payment hereunder, and (vii) the obligation of either party to indemnify the other pursuant hereto, shall survive the termination of the Base Contract or any transaction."

**Section 15. Miscellaneous**

Delete Section 15.3 in its entirety and replace with the following:

"15.3 No waiver of any breach of this Contract, or delay, failure or refusal to exercise or enforce any rights under this Contract, shall be held to be a waiver of any other or subsequent breach, or be construed as a waiver of any such right then existing or arising in the future."

In second line of Section 15.10, add the following:

"or any financial information provided by a party under the terms of this Contract" after "the terms of any transaction".

Add the following at the end of Section 15.10:

Notwithstanding the foregoing or any other provision of this Contract, Party A acknowledges that Party B, as a home rule charter county of Washington State, is subject to the Washington State Public Records Act, Ch. 42.56 RCW, and Party A agrees that Party B shall not be in breach of this Contract or have any liability whatsoever under this Contract or otherwise for any claims or causes of action whatsoever resulting from or arising out of Party B's copying or releasing to a third party any of the information of Party A when ordered or instructed to do so by a court of competent jurisdiction, or when, in the professional judgment of Party B's counsel, Party B is compelled to permit such disclosure or copying or else risk civil or criminal liability. Party B shall provide timely notice to Party A of any public records request, claim or action reasonably placing at risk the release of any information of Party A, in order to permit Party A to intervene therein, or initiate an action to enjoin release of such information, at Party A's own cost and expense. The provisions of this section shall survive the expiration or termination of this Contract.

Add the following as Section 15.13:

"15.13 EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM (WHETHER BASED ON CONTRACT, TORT OR OTHERWISE) ARISING OUT OF OR IN ANY WAY RELATING TO THIS CONTRACT OR THE PERFORMANCE OR NONPERFORMANCE OF OBLIGATIONS ARISING UNDER OR IN CONNECTION WITH THIS CONTRACT."

Add new Section 15.14 as follows.

"15.14 Venue; Jurisdiction. Venue for any suit, legal action or other legal proceeding arising out of or relating to this Contract shall be in the Superior Court of Washington for King County or the United States District Court for the Western District of Washington and located in Seattle. Each party consents to the jurisdiction of any such court in any such suit, action or proceeding and waives any objection or defense which such party may have to the laying of venue of any such suit, action or proceeding in any such court, including the defense of an inconvenient forum to the maintenance in such court of such suit, action or proceeding. The parties agree that a final judgment in any such suit, action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or by any other manner provided by law. Except as otherwise expressly provided in this Contract, each party shall pay its own attorneys' fees and costs in connection with any legal action hereunder.

Add the following as Section 15.15:

"15.15 This Contract shall be considered for all purposes as prepared through the joint efforts of the parties and shall not be construed against one party or the other as a result of the manner in which this Contract was negotiated, prepared, drafted or executed."

Add the following as Section 15.16:

"15.16 Each party will be deemed to represent to the other party each time a transaction is entered into that: (i) it is acting for its own account, and it has made its own independent decisions to enter that transaction and as to whether that transaction is appropriate or proper for it based upon its own judgment and upon advice from such advisors as it has deemed necessary; (ii) it is not relying on any communication (written or oral) of the other party as investment advice or as a recommendation to enter into that transaction; it being understood that information and explanations related to the terms and conditions of a transaction shall not be considered investment advice or a recommendation to enter into that transaction; (iii) no communication (written or oral) received from the other party shall be deemed to be an assurance or guarantee as to the expected results of that transaction; (iv) it is capable of assessing the merits (on its own behalf or through independent professional advice), and understands and accepts, the terms, conditions and risks of that transaction; (v) it is capable of assuming, and assumes, the risks of that transaction; and (vi) the other party is not acting as a fiduciary for, or an advisor to, it in respect of that transaction."

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Add the following as Section 15.17:

"15.17 Party B covenants and agrees that with respect to its contractual obligations hereunder and its performance thereof, it shall not claim on the grounds of sovereignty or other similar grounds with respect to itself or its revenues or assets (irrespective of their use or intended use) immunity from (i) suit, (ii) jurisdiction of any court specified in Section 15.14, (iii) relief by way of injunction, mandamus, order for specific performance or for recovery of property, (iv) attachment of its assets (whether before or after judgement) or (v) execution or enforcement of any judgement to which it or its revenues or assets might otherwise be made subject to in any proceedings in the courts of any jurisdiction, and no such immunity (whether or not claimed) may be attributed to Party B or its revenues or assets."

Add the following as Section 15.18:

"15.18 Where the negotiation process is specifically prescribed to resolve a dispute under this Contract, the parties shall seek to resolve the dispute by negotiations between senior executives who have authority to settle the controversy provided, however, that either party may seek interim relief to the extent necessary to preserve its rights hereunder or protect its property during the continuance of the resolution process described herein. Either party may initiate this negotiation process by written Notice to the other party outlining that party's position regarding the dispute ("Negotiation Notice"). The senior executives shall meet at a mutually acceptable time and place within fifteen (15) Business Days after the date of the Negotiation Notice to exchange relevant information concerning the dispute and to attempt to resolve the dispute. If a senior executive intends to be accompanied at a meeting by an attorney, the other party's senior executive shall be given at least three Business Days' Notice of such intention and may also be accompanied by an attorney. All negotiations are confidential and shall be treated as compromise and settlement negotiations under the Federal Rules of Evidence or any similar applicable rules of evidence. If the parties are unable to resolve the dispute after the meeting, either party may pursue its rights and remedies in a court of competent jurisdiction in accordance with Section 15.14."

[Biogas Special Provisions ("Addendum") follow.]

[Remainder of this page intentionally left blank.]

**BIOGAS SPECIAL PROVISIONS ("ADDENDUM")**

These Biogas Special Provisions ("Addendum") are in addition to the above Special Provisions and shall apply only to transactions for the purchase and sale of Biogas whereby IGI Resources, Inc. will be the party purchasing and receiving the Biogas ("Buyer") and King County will be the party selling and delivering the Biogas ("Seller"). The provisions of this Addendum will only apply to a sale and purchase of Biogas and its associated Green Attributes.

**ARTICLE I. DEFINITIONS AND INTERPRETATION**

**1.1 Definitions.** The following terms when used in this Addendum will have the meanings set forth below. Capitalized terms used in this Addendum but not defined herein are as defined in the Base Contract.

"Addendum" has the meaning set forth in the preamble.

"Advanced Biofuel" means a renewable fuel as set forth in the EPA RFS program (40 C.F.R. § 80.1401 (2012)), other than ethanol derived from corn starch, and which must achieve a Lifecycle Greenhouse Gas Emission displacement of fifty percent (50%) compared to the baseline Lifecycle Greenhouse Gas Emissions.

"Alternative Fuel" means any transportation fuel that is not California reformulated gasoline or a diesel fuel, including but not limited to, those fuels specified in the California Low Carbon Fuel Standard (Cal. Code Regs. tit. 17, § 95480.1(a)(12) (2010)).

"Biogas" means pipeline quality Gas derived from the decomposition of organic matter that meets the EPA RFS eligibility requirements as either an Advanced Biofuel or Cellulosic Biofuel and/or CARB eligibility requirements as an Alternative Fuel.

"Biogas Contract" means a Contract between Buyer and a Vehicle Fuel Producer for the supply of Biogas.

"Buyer" means IGI Resources, Inc.

"CARB" means the California Air Resources Board or its successor agency and policies established under the LCFS regulations (Cal. Code Regs. Title 17, §§ 95480 – 90 (2010)), applying to any transportation fuel that is sold, supplied, or offered for sale in California.

"Cellulosic Biofuel" means a renewable fuel derived from any cellulose, hemi-cellulose or lignin that has lifecycle greenhouse gas emissions that are at least sixty percent (60%) less than the baseline Lifecycle Greenhouse Gas Emissions (as set forth in the EPA RFS program (40 C.F.R. § 80.1401 (2012)).

"Claims" has the meaning set forth in Section 2.8.

"Disqualified Biogas" means Gas that was initially determined by the parties upon delivery to be Biogas but subsequently becomes disqualified as Biogas by not satisfying the requirements of the EPA Renewable Fuels Standard or the CARB LCFS.

"Disruption Event" means the occurrence of any of the following: (a) the occurrence of an event of Force Majeure under a Biogas Contract, (b) the termination of a Biogas Contract based solely on an uncured Event of Default thereunder by the Vehicle Fuel Producer, (c) the termination of a Biogas Contract based on the occurrence of a Regulatory Event thereunder, or (d) Biogas that is sold pursuant to the Contract becoming Disqualified Biogas.

"EPA" means the United States Environmental Protection Agency.

"EPA Renewable Fuels Standard" or "EPA RFS" means the renewable energy program and policies established by the Environmental Protection Agency and published on March 26, 2010 (at 75 Fed. Reg. 14670) and became effective on July 1, 2010.

"Green Attributes" means any and all environmental attributes, including (a) RINs or LCFS Credits or any offsets, credits, or other environmental attributes or products and (b) and any of the foregoing that are recognized under emissions reduction or other environmental programs that may be implemented in Washington or Oregon, associated with the use of Biogas as an Advanced Biofuel, Cellulosic Biofuel, low carbon fuel or Alternative Fuel.

"Greenhouse Gas" means carbon dioxide (CO<sub>2</sub>), methane (CH<sub>4</sub>), nitrous oxide (N<sub>2</sub>O), 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., U.S. federal, state, or local agencies), or non-governmental agency from time to time, in each case measured in increments of one metric tonne of carbon dioxide equivalent.

"Green Premium" means the price premium per MMBtu of Biogas added to the market Gas price which may account for the generation of RINs and LCFS Credits as set forth in the relevant Transaction Confirmation.

"Lifecycle Greenhouse Gas Emissions" means the aggregate quantity of Greenhouse Gas emissions (including direct emissions and significant indirect emissions from land use changes), as determined by the EPA RFS or CARB, related to the full fuel lifecycle, including all stages of fuel and feedstock production and distribution, from feedstock generation or extraction through the distribution and delivery and use of the finished fuel to the ultimate consumer, where the mass values for all greenhouse gases are adjusted to account for their relative global warming potential.



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"LCFS" means the Low Carbon Fuel Standard established by the CARB pursuant to the California Low Carbon Fuel Standard Regulation (Cal. Code Regs. Title 17, §§ 95480 – 90 (2010)).

"LCFS Credits" means credits generated and traded under the LCFS, with each credit equal to one metric tonne of Carbon Dioxide reductions as compared to the baseline CO2 emissions under the LCFS.

"Pathing" has the meaning set forth in Section 2.6.

"Project" means a Biogas production project which produces Biogas for purchase and sale under this Contract.

"Renewable Identification Number (RIN)" is a number generated to represent a volume of renewable fuel as set forth in Regulation of Fuels and Fuel Additives: Changes to Renewable Fuel Standard Program, 75 Fed. Reg. 16484 (March 26, 2010) (codified at 40 C.F.R. § 80.1425 (2011); 40 C.F.R. § 80.1426 (2012)).

"Seller" means King County.

"Vehicle Fuel" means compressed natural gas (CNG) or liquefied natural gas (LNG) derived from Biogas and used in transportation vehicles.

"Vehicle Fuel Producer" means the vehicle fuel producer(s) listed in the Transaction Confirmation that will purchase from Buyer the Biogas sold under this Contract.

### ARTICLE II. SPECIFIC TERMS OF PURCHASE AND SALE

In addition to the terms and conditions set forth in the Base Contract, the following terms and conditions will govern the purchase and sale of Biogas.

2.1 Green Attributes Associated with Biogas. For all Biogas sold and purchased under a Biogas Contract between Seller and Buyer, Seller represents and warrants that (i) it has the rights to all Green Attributes and will convey to Buyer all Green Attributes for such Biogas, (ii) the Biogas delivered to Buyer hereunder is from a Project that produces pipeline quality Biogas, (iii) the Biogas shall be delivered to Buyer in accordance with the requirements of the Renewable Fuels Standard and Low Carbon Fuels Standard, or any similar program that may be developed in the future that the parties may agree to include in this Contract, and (iv) each facility producing the Biogas has provided to Seller and/or Buyer the Biogas fuel production facility registrations consistent with Section 2.6.

2.2 Daily Contract Quantity. For the Contract Quantity set forth in the Transaction Confirmation, Seller will provide Buyer with its estimated daily quantity of Biogas at the Delivery Point set forth in the Transaction Confirmation for the delivery Month by no later than the twentieth (20<sup>th</sup>) Day of the Month prior to the delivery Month. Seller will provide Buyer with three (3) days' advance notice of any scheduled outages at its Biogas facility. Seller will notify Buyer of any unscheduled outages at its Biogas facility as soon as reasonably practicable. Nothing in this Section 2.2 shall impose upon Seller any liability for failure to provide to Buyer notice of any reduction in Gas production or for failure to deliver any quantities of Gas.

2.3 Transaction Confirmation. The Transaction Confirmation for the purchase and sale of Biogas shall include the identification of the relevant Vehicle Fuel Producer. The Transaction Confirmation shall provide for Buyer to make updates to the identity of the Vehicle Fuel Producer as necessary. Notwithstanding any provision of the Base Contract concerning transaction procedures, the parties agree that any Transaction Confirmation related to Biogas must be executed by both parties in order for the Transaction to be binding upon the parties.

2.4 Disqualified Biogas. Either party will promptly notify the other party if any Biogas delivered under a Transaction Confirmation is determined to be Disqualified Biogas. In addition to any other remedies under the Contract, if Biogas sold by Seller and purchased by Buyer hereunder becomes classified as Disqualified Biogas, Buyer will be entitled to a refund in an amount equal to the Green Premium multiplied by the quantity of Disqualified Biogas in MMBtus.

2.5 Failure to Produce Vehicle Fuel. In the event that Buyer cannot utilize any Biogas for the production of a Vehicle Fuel for any reason, including, but not limited to an event of Force Majeure or Event of Default under a Biogas Contract, Buyer shall promptly notify Seller in writing. In addition to all other remedies under the Base Contract and hereunder, if Gas sold by Seller and purchased by Buyer hereunder originally deemed to be Biogas is not processed into a Vehicle Fuel, Buyer will be entitled to a refund of any Green Premium payment made to Seller for the volume of Biogas that was not processed into a Vehicle Fuel and for which no Green Premium may be claimed under the relevant regulation.

2.6 Biogas Registration. Prior to delivery of the Biogas to Buyer, Seller or its designee shall submit to the EPA and CARB and provide Buyer with copies of any and all documentation required by the EPA or CARB to certify that the Biogas is an Advanced Biofuel or Cellulosic Biofuel that can generate D Code 3 or D Code 5 RINs (with respect to the EPA RFS) and create a low carbon intensity pathway (with respect to CARB) for generation of Low Carbon Fuel Standard Credits (to the extent that sales of the Biogas Vehicle Fuel are contemplated in California). This documentation will include, but is not limited to, all documentation required to certify that production and the transportation of the Biogas from its point of production to the Delivery Point stated in the Transaction Confirmation is compliant with the transportation routing requirements ("Pathing") of the EPA RFS and Low Carbon Fuels Standard. Such documentation may include, but is not limited to any affidavits, reporting or attestations required by the EPA or CARB, such as (i) assertions that the registration requirements as outlined by the Renewable Fuels Standard Registration Compliance Guidelines Engineering Review (40 C.F.R. § 80.1450 (2012),) have been met and (ii) documentation confirming that the Seller and Buyer are registered under California state regulations (Cal. Code Regs. tit. 17, § 95484(a)(5)(A)1a (2010)), as regulated parties in the LCFS regulation.

2.7 Further Assurances. Each party will provide the other party such cooperation, additional documentation, certifications or other information as may be reasonably necessary to carry out the purposes of this Addendum (including pursuant to any audit of this Addendum and/or the Transaction Confirmation by a third party) and in order for title to the conveyed Green Attributes to vest in the Buyer in connection with the purchase and sale of the Contract Quantity of Biogas.

2.8 Indemnifications.

2.8.1 Seller. Notwithstanding any other provisions in the Base Contract, including, without limitation, any and all limitations on damages, Seller agrees to indemnify Buyer and save it harmless from all losses, liabilities, penalties, fines, charges or claims, including, without limitation, reasonable attorneys' fees and costs of court, arising out of any third-party claim (collectively, "Claims") from any and all persons, arising from or out of (i) claims of title, registrations, and attestations concerning the Biogas; (ii) all claims or losses of any kind and all persons arising from any material Seller-provided falsehoods, misrepresentations, inaccuracies or misleading statements or information in any supporting documentation, including, without limitation, registrations required in Section 2.6 or related to any attestation related to RIN or LCFS Credit generation delivered under this Addendum, (iii) personal injury (including death) or property damage from said Biogas which attach before title passes to Buyer, (iv) other claims, liens, and encumbrances related to said Biogas which attach before title passes to Buyer, and (v) Seller's gross negligence or willful misconduct.

2.8.2 Buyer. Notwithstanding any other provisions in the Base Contract, including, without limitation, any and all limitations on damages, Buyer agrees to indemnify Seller and save it harmless from all Claims based on (i) personal injury (including death) to the third-party claimant or damage to the property of such third-party claimant directly resulting from the Biogas that occurred after title passed to Buyer; (ii) other claims, liens and encumbrances thereon that attach after title passes to Buyer, with respect to (i) or (ii), to the extent such Claims are not based upon (a) any breach by Seller hereunder, (b) any breach by Seller of the Transaction Confirmation or (c) any Claim for which Buyer is indemnified pursuant to Section 2.8.1; (iii) material Buyer-provided falsehoods, misrepresentations, inaccuracies or misleading statements or information in any supporting documentation, including, without limitation, registrations or any attestation related to RIN or LCFS Credit, if applicable, generation based on Biogas purchased from Seller and subject to the Contract which includes this Addendum; and (iv) Buyer's gross negligence or willful misconduct.

2.9 Regulatory Event. The provisions of Section 3.6 of the Base Contract, as amended, shall apply to each Transaction for the purchase and sale of Biogas.

### ARTICLE III. DISRUPTION EVENT

3.1. Upon the occurrence of a Disruption Event:

3.1.1 Buyer shall promptly notify Seller in writing of such Disruption Event, including the particulars of such Disruption Event and a good faith estimate of the expected duration of such Disruption Event,

3.1.2 Buyer shall use commercially reasonable efforts to remedy the effects of the Disruption Event, including, to the extent appropriate, executing a replacement Biogas Contract, and

3.1.3 Buyer and Seller shall meet and confer in good faith to discuss alternatives for the purchase and sale of Gas during the continuance of such Disruption Event, which alternatives may include an agreement to store Gas.

3.2. During the continuance of a Disruption Event:

3.2.1 Buyer shall keep Seller reasonably informed as to the status of the Disruption Event and Buyer's efforts to execute a replacement Biogas Contract,

3.2.2 Provisions of this Addendum relating to Green Attributes shall not apply, and

3.2.3 Unless Buyer and Seller have otherwise agreed, Seller shall continue to sell and deliver and Buyer shall continue to purchase and receive Gas pursuant to the terms of the Contract and the applicable Transaction Confirmation.

3.3. Upon the cessation of a Disruption Event or the execution of a replacement Biogas Contract:

3.3.1 Buyer shall amend the Transaction Confirmation, if applicable, to reflect the identity of the replacement Vehicle Fuel Producer, and

3.3.2 The provisions of this Addendum and the Transaction Confirmation (including pricing) relating to Green Attributes shall apply from and after the cessation of the Disruption Event or the commencement of deliveries under the replacement Biogas Contract, as applicable.

### ARTICLE IV. MISCELLANEOUS

4.1 Authority to Execute. Each of the parties to this Addendum represents and warrants that, as of the Effective Date, (i) it has full and complete authority to enter into and perform this Addendum; (ii) the person who executes this Addendum on its behalf has full and complete authority to do so and is empowered to bind it thereby; and (iii) it is not insolvent and has not sought protection from its creditors under the United States Bankruptcy Code, or under any similar laws.

4.2 Miscellaneous. This Addendum may be executed in multiple counterparts, each of which will constitute an original and all of which together

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will constitute one and the same instrument. The headings and subheadings contained in this Addendum are used solely for convenience and shall not be used to construe or interpret the provisions of this Addendum. The language used in this Addendum is the product of both parties' efforts and each party irrevocably waives the benefit of any rule of contract construction which disfavors the drafter of a contract or the drafter of specific language in a contract.

4.3 Entirety and Amendments. This Addendum, the Base Contract, the Special Provisions and each applicable Transaction Confirmation constitute the entire agreement between the parties regarding the purchase by Buyer and sale by Seller of Biogas, and supersedes and replaces any prior and contemporaneous communications, understandings and agreements between Seller and Buyer related to such subject matter, whether written or verbal, express or implied. No modification, amendment, supplementation or alteration of the terms and provisions of this Addendum will be or become effective except by written amendment executed by the duly authorized representative of both parties. Except as set forth herein, the Base Contract will remain unchanged.

4.4 One Agreement. The parties agree and acknowledge that this Addendum shall be effective for any and all Biogas purchases and sales commencing on the date first written above and shall be considered part of the Contract as such term is defined in the NAESB General Terms and Conditions. Accordingly, the parties agree and acknowledge that this Addendum is part and parcel to the Contract involving the purchase and sale of Biogas, and accordingly the Base Contract, this Addendum and any Biogas Transaction Confirmation shall be deemed to constitute one integrated agreement for all purposes.

4.5 Survival of Terms. To the extent that this Addendum is terminated, the parties agree that any and all terms and conditions of this Addendum that are necessary to effectuate the parties' rights and remedies as a result of an Event of Default will survive the termination of this Addendum until such time as the rights and remedies and all disputes related thereto are fully and finally resolved.

4.6 Conflicting Terms. The parties agree that to the extent any terms and conditions set forth in this Addendum conflict with any terms set forth in the Base Contract, this Addendum will govern for all purposes with respect to the purchase and sale of Biogas. With respect to any conflicts between the Transaction Confirmation for the purchase and sale of Biogas and this Addendum, the provisions of the Transaction Confirmation shall have priority over the Addendum.

4.7 Governing Law. The law governing the Base Contract shall apply to this Addendum, except to the extent that the EPA Renewable Portfolio Standards and CARB Low Carbon Fuels Standard, together with regulations and decisions promulgated thereunder, are applicable to the purchase and sales of Biogas.


[Signature page follows.]

[Remainder of this page intentionally left blank.]

IN WITNESS WHEREOF, and with the intent to be legally bound, the parties hereto have caused these Special Provisions and this Addendum to be executed by their duly authorized officers or representatives as of the Effective Date.

IGI RESOURCES, INC.

KING COUNTY, THROUGH ITS DEPARTMENT  
OF NATURAL RESOURCES AND PARKS --  
WASTEWATER TREATMENT DIVISION

By:   
Name: Randy Schultz  
Title: President  
Date: September 1, 2016



By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_, 2016

[Special Provisions Attached to and forming Part of the Base Contract for Sale and Purchase of Natural Gas  
Dated as of the Effective Date]



Execution Copy

**Biogas Transaction Confirmation**  
FOR IMMEDIATE DELIVERY

		Date: Effective Date _____ Contract: _____
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This Biogas Transaction Confirmation (the "Biogas Transaction Confirmation") is subject to the Base Contract between Buyer and Seller dated as of the Effective Date and the Addendum between Buyer and Seller dated as of the Effective Date. The terms of the Base Contract and the Addendum are deemed to be incorporated into this Biogas Transaction Confirmation, and this Biogas Transaction Confirmation, together with the Base Contract and the Addendum form a single agreement (the "Contract") governing the transactions described herein. The terms of this Biogas Transaction Confirmation are binding upon execution by both parties. Capitalized terms used herein but not defined herein shall have the meanings ascribed thereto in the Base Contract and Addendum.

<b>BUYER:</b> IGI Resources, Inc. 201 Hellos Way Houston, TX 77079 Attn: <u>                    Ralph Epling                    </u> Phone: <u>                    206-224-3505                    </u> Fax: <u>                        281-227-8470                        </u> Base Contract No. <u>                    2700897                    </u> Transporter: _____ Transporter Contract Number: _____	<b>SELLER:</b> King County, through its Department of Natural Resources and Parks - Wastewater Treatment Division 201 S Jackson St #500 Seattle, WA 98104  Attn: David Broustis Phone: 206-477-4544 Base Contract No. _____ Transporter: _____ Transporter Contract Number: _____
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**Performance Obligation**

There shall be two (2) Delivery Periods during the term of this Biogas Transaction Confirmation. Seller shall have a Firm obligation to deliver the Contract Quantity to the Delivery Point(s) throughout each Delivery Period and shall have an obligation to certify, on a periodic schedule as required by (i) the EPA that the Biogas quantities delivered qualify for the creation of RINs under the EPA RFS and (ii) CARB that the Biogas quantities delivered qualify for the creation of LCFS Credits under the CARB LCFS (if applicable). During Delivery Period 1, Seller sell and deliver and Buyer shall receive and purchase Gas. During Delivery Period 2, Seller sell and deliver and Buyer shall receive and purchase Biogas.

Upon the occurrence and during the continuance of a Disruption Event as defined in the Biogas Addendum, the Biogas Contract Price shall be the Posted Price unless the Seller and Buyer agree otherwise. No RIN Premium Allocation or LCFS Allocation shall be paid during an on-going Disruption Event.

For this Biogas Transaction Confirmation, Early Termination Damages do not apply.

**Contract Price (\$/MMBtu):**

- **Gas Contract Price.** The Contract Price for Gas delivered to Buyer by Seller at the Delivery Point shall be equal to the Posted Price ("Gas Contract Price").

**Gas Contract Price = Posted Price**

- **Biogas Contract Price:** The Contract Price for RIN qualified Biogas quantities ("Biogas Contract Price") delivered to Buyer by Seller at the Delivery Point shall be equal to the Posted Price plus the RIN Premium Allocation plus the LCFS Credit Premium Allocation, if applicable, and consistent with Section 2.1 of the Biogas Addendum includes one hundred percent of the qualified RINs and LCFS Credits generated as a result of the ultimate sale of the Biogas sold hereunder to Buyer.

$$\text{Biogas Contract Price} = \text{Posted Price } (\$/\text{MMBtu}) + [\text{RIN Premium Allocation (cents/gallon)}] \times (\$/100 \text{ cents}) \\ \times (11.727 \text{ gallon/MMBtu}) + [\text{LCFS Credit Premium Allocation}] (\$/\text{MMBtu})$$

- The "Posted Price" means the Gas Daily Midpoint Index for NW Pipeline Canadian Border (Sumas) (\$/MMBtu) as

published by Platts or any successor thereto.

- **RIN Premium Allocation.** The RIN premium allocation ("RIN Premium Allocation") shall mean, for each Month in which RINs are generated, seventy percent (70%) of the RIN Price Basis as defined below. Payment of the RIN Premium Allocation as part of the Biogas Contract Price is contingent upon Buyer or Buyer's Affiliate selling Biogas purchased under this Biogas Transaction Confirmation to the Vehicle Fuel Producer in the United States cited in Paragraph 5 of the Special Conditions in this Biogas Transaction Confirmation and the production of RINs from such Biogas that is converted to a Vehicle Fuel.
  - (a) **RIN Premium Allocation Calculation.** RIN valuations for calculating the RIN Premium Allocation, as defined below, shall be based on RIN prices that are reflective of the D3 Cellulosic Biofuel RIN ("D3 RIN") prices during the Month in which the Seller delivers Biogas ("RIN Price Basis") as specified below. The RIN Price Basis shall be determined based on the following hierarchy: (1) the Argus D3 Index (as defined below) during the Month in which the Biogas is delivered; provided that such Index is Validated (as defined below in (b) *Clarification*), (2) cash revenue realized by Buyer's RIN Marketing Affiliate (as defined below in (b) *Clarification*) from the sale of D3 RINs associated with such Month, or (3) if the Argus D3 Index is not Validated as set forth in (1) and to the extent that (2) is not achievable in whole or in part in a commercially reasonable manner, the greater of (a) ninety percent (90%) of the Argus D3 Index during the Biogas delivery Month or (b) the average of the daily posted mid-point prices for the Argus D5 Advanced Biofuel RIN Index ("Argus D5 Index") during the Biogas delivery Month.
  - (b) **Clarification.**
    - 1) The Argus D3 Index shall be considered validated ("Validated") with respect to a Biogas delivery Month if the Argus D3 RIN Index has traded, as supported by published trades in the *Argus US Products* daily report, for any ten (10) Business Days in the twenty (20) consecutive Business Day period that immediately precedes the Advance Notice Deadline applicable to such Month. If the Argus D3 Index is Validated with respect to a Biogas delivery Month, then the RIN Price Basis shall be equal to the daily Argus D3 RIN Price for such Biogas delivery Month based on the daily Argus D3 Index, regardless of whether there are supporting daily D3 RIN trades in the *Argus US Products* daily report.
    - 2) If the Argus D3 Index is not Validated with respect to a Biogas delivery Month, then Buyer shall cause an Affiliate of Buyer to which the D3 RINs have been transferred for the purpose of marketing such D3 RINs ("Buyer's RIN Marketing Affiliate") to use commercially reasonable and good faith efforts to maximize the value of the D3 RINs by selling such D3 RINs to an unaffiliated third party or by purchasing such RINs directly. The RIN Price Basis with respect to such D3 RINs sold in accordance with the preceding sentence shall be equal to the volume-weighted average cash price realized by Buyer's RIN Marketing Affiliate from the sale of its portfolio D3 RINs applicable to such Biogas delivery Month, which portfolio may include D3 RINs related to agreements with third parties.
    - 3) If Buyer's RIN Marketing Affiliate is unable to sell all or a portion of the D3 RINs in accordance with clause (2) above by the end of the applicable Biogas delivery Month, then with respect to such unsold D3 RINs the RIN Price Basis shall be equal to the greater of (a) ninety percent (90%) of the Argus D3 Index calculated with respect to the Biogas delivery Month or (b) the Argus D5 Index during the Biogas delivery Month.
  - (c) **Changes to Pricing Publications.** If any prices or publications used to determine the RIN Price Basis are changed, discontinued or replaced in any manner that makes the determination of the RIN Price Basis impossible, the parties shall determine the applicable RIN Price Basis using the methodology in Section 14 of the Base Contract.
  - (d) **RIN Market and Trades.** For the avoidance of doubt, Seller acknowledges and agrees that (i) the market for RINs may lack liquidity, (ii) Buyer's RIN Marketing Affiliate shall at all times retain control over the evaluation of potential sales of D3 RINs and the ultimate sale of D3 RINs into the market, and (iii) Seller shall have no right to participate in or direct the sales of D3 RINs.
  - (e) **Seller Election to Take RINs In-Kind.** In lieu of receiving the RIN Premium Allocation, Seller may elect to take its RINs Premium Allocation for any one or more Biogas delivery Months as RINs in-kind provided that Seller provides written Notice to Buyer by the Advance Notice Deadline. In the event that Seller does not provide written Notice to Buyer of its election to receive its RINs in-kind, Seller, shall receive its RIN Premium Allocation as calculated pursuant to clauses (a), (b) and (c) above. If Seller elects to take its RINs in-kind, Seller must take its entire seventy percent (70%) share of RINs and shall establish and manage its EPA EMTS (EPA Mandated Transaction System) account required for such RINs. Seller shall not have the right to present any RINs that it retains in-kind to Buyer for monetization at will. Any arrangement in which Buyer monetizes such RINs for Seller shall be a separate negotiated transaction that is not included under this Biogas Transaction Confirmation. Seller may modify or rescind any election to receive its RINs in-kind given pursuant to this clause (e) provided that Seller provides written notice to Buyer thereof at least seven (7) Business Days prior to the start of the applicable Month. The effect of Buyer's rescission of such election to receive its RINs in-kind will be that the RIN Premium Allocation for the applicable Month(s) will be determined as set forth in

clauses (a) and (b) above.

(f) **Documentation for D3 RIN Sales.** During the first full week of the Month following each Biogas delivery Month, Buyer shall deliver to Seller via email, the transaction data for D3 RIN sales made by Buyer's RIN Marketing Affiliate during the Biogas delivery Month that will include the (i) number of D3 RIN transactions, (ii) date of the D3 RIN transactions and (iii) price at which the D3 RIN transactions were carried out.

- The "LCFS Credit Premium Allocation" shall mean thirty-five percent (35%) of the value of Buyer's Net LCFS Credit Premium Allocation divided by the Biogas quantity purchased by Buyer in the applicable month. Settlements for LCFS Credits generated by the Biogas sold under this Biogas Transaction Confirmation and sold to the Vehicle Fuel Producer cited in this Biogas Transaction confirmation shall be made on a Calendar Quarter basis. Payment of the LCFS Credit Premium Allocation is contingent upon Buyer or an Affiliate of Buyer selling Biogas purchased under this Biogas Transaction Confirmation to a Vehicle Fuel Producer in California and the production of a LCFS Credit from such Biogas that is converted to a Vehicle Fuel.
- **Disruption Event Biogas Contract Price.** The Biogas Contract Price upon the occurrence of a Disruption Event ("Disruption Event Biogas Contract Price") shall be the Posted Price until the cessation of the Disruption Event.

**Disruption Event Biogas Contract Price = Posted Price**

**Delivery Period:**

**Delivery Period 1:**

**Start Date:** The first Day of the Month that occurs at least seven (7) Days after the execution of this Biogas Transaction Confirmation.

**End Date:** The fourth Business Day that occurs after the EPA Approval Date. In the event that the EPA Approval Date for the Biogas Project does not occur by June 1, 2017, unless the Seller and Buyer agree in writing to extend Delivery Period 1, for a period not to exceed one year, the Contract shall terminate as of June 30, 2017. Any agreement to extend the term of Delivery Period 1 for a period of more than one year shall require the prior approval of the King County Council before such agreement shall be effective. In connection with the execution of any such agreement, Seller shall deliver to Buyer in writing such approval of the King County Council.

**Delivery Period 2:**

**Start Date:** The fifth (5<sup>th</sup>) Business Day that occurs after the EPA Approval date.

**End Date:** Thirty-six (36) Months after the Start Date for Delivery Period 2 subject to extension pursuant to Special Condition 7 below.

**Contract Quantity:** 0 – 1,000 MMBtu Biogas/Day

The Contract Quantity reflects all of the Gas that Seller produces and injects into the Puget Sound Energy Gas pipeline distribution system.

**Delivery Point(s):**

Seller's meter, as set forth below.

**Delivery Point Description**

**Meter No.**

At the interconnection point of the facility with the natural gas distribution system of Puget Sound Energy, identified as the South Seattle Gate Station

201120039

**Special Conditions:**

1. **Definitions.**

"**Advance Notice Deadline**" means the seventh (7<sup>th</sup>) Business Day before the first Day of the next Biogas delivery Month.

"**Biogas Contract Price**" has the meaning set forth in the Contract Price section in this Biogas Transaction Confirmation.

"**Buyer's Net LCFS Credit Premium Allocation**" means the cash value of the LCFS Credits allocated to Buyer in the subsequent sale of the Biogas purchased in this Biogas Transaction Confirmation to the Vehicle Fuel Producer cited in this Biogas Transaction Confirmation.

"**Calendar Quarter**" means the periods, January 1 through March 31, April 1 through June 30, July 1 through September 30 and October 1 through December 31.

"**Argus D3 Index**" means, the "Low" and "High" D3 RIN price with respect to any Day for the applicable vintage year of

Cellulosic Biofuels as published in the *Argus US Products* report on each trading Day.

"**Argus D3 RIN Price**" means, with respect to any Day, the arithmetic average of the "Low" and "High" price for the applicable vintage year of Cellulosic Biofuels as published for such Day in the *Argus US Products* report.

"**EPA Approval Date**" shall mean the date on which the Biogas Project is successfully registered with the EPA and the Biogas from such Biogas Project is capable of generating RINS pursuant the EPA Renewable Fuel Standard.

"**Gas Contract Price**" has the meaning set forth in the Contract Price section in this Biogas Transaction Confirmation.

"**ICF Resources**" means ICF Resources, Inc.

"**KCVFP**" shall have the meaning set forth in Paragraph 3(a) of the Special Conditions herein.

"**LCFS Credit Value**" means the cash value of the LCFS Credits, based on the monthly average of the daily midpoints of the LCFS Credit daily prices published by Oil Price Information Service or any successor thereto, that are created by the sale and purchase of the Biogas in this Biogas Transaction Confirmation and the subsequent sale and purchase of such Biogas to the Vehicle Fuel Producer cited in this Biogas Transaction Confirmation.

"**LCFS Credit Premium Deadline**" shall have the meaning set forth in Paragraph 2(b) of the Special Conditions herein.

"**RIN Premium Deadline**" shall have the meaning set forth in Paragraph 2(a) of the Special Conditions herein.

"**WAVFP**" shall have the meaning set forth in Paragraph 3(b) of the Special Conditions herein.

"**Weaver**" means Weaver & Tidwell L.L.P.

**2. Payment of RIN and LCFS Credit Premium Allocations.**

(a) **RIN Premium Allocation.** The RIN Premium Allocation shall be paid based on the RINs generated and transferred to the Buyer's EPA EMTS Account as of the fifteenth day of the Month following the Month in which Biogas flowed ("**RIN Premium Allocation Deadline**"). Any RIN Premium due for RINs not generated and transferred to the Buyer's EPA EMTS Account by the RIN Premium Deadline, but generated and transferred thereafter shall be paid in the following Month. No RIN Premium will be paid for RINs not generated and transferred to the Buyer's EPA EMTS Account.

(b) **LCFS Credit Premium Allocation.** The LCFS Credit Premium Allocation shall be paid based on the value of LCFS Credits generated and transferred to the Buyer's CARB LRT Account between the fifteenth (15<sup>th</sup>) and eighteenth (18<sup>th</sup>) Day of the Month following the end of the Calendar Quarter (April 15- 18, July 15-18, October 15-18 and January 15-18). ("**LCFS Credit Premium Allocation Deadline**"). Any LCFS Credit Premium due for LCFS Credits not generated and transferred timely to the Buyer's CARB LRT Account by the LCFS Credit Premium Deadline, but generated and transferred thereafter shall be paid at the end of the following quarter. No LCFS Credit Premium will be paid for LCFS Credits not generated and transferred to the Buyer's CARB LRT Account. The calculation of the LCFS Credit Premium Allocation may be amended by the parties to reflect a future development of a market for Green Attributes in Washington State.

**3. Buyer's Biogas Sales to Vehicle Fuel Producers.**

(a) **King County.** Buyer shall pursue Biogas Contracts with Vehicle Fuel Producers located in King County, Washington ("**KCVFP**") and shall sell and deliver all Biogas purchased under this Contract to such KCVFP provided that at the applicable time each of the following conditions are satisfied: (a) Buyer is contractually engaged with Vehicle Fuel Producers located in KCVFP and (b) such Vehicle Fuel Producers have sufficient capacity to consume the full Biogas production from Seller.

(b) **Washington State.** To the extent that the conditions specified in clause (a) above are not satisfied, Buyer shall pursue Biogas Contracts with Vehicle Fuel Producers located in Washington State ("**WAVFP**") and shall sell and deliver all Biogas purchased under this Contract to WAVFP provided that at the applicable time each of the following conditions are satisfied: (a) Buyer is contractually engaged with WAVFP and (b) such Vehicle Fuel Producers have sufficient capacity to consume the full Biogas production from Seller.

(c) **Other Jurisdictions.** To the extent that the conditions specified in clause (a) and clause (b) above are not satisfied, Buyer may sell and deliver Biogas purchased under this Biogas Transaction Confirmation to Vehicle Fuel Producers located in any other jurisdiction.

4. **Monthly Nominations and Scheduling.** On or before the twentieth (20<sup>th</sup>) Day of each month, Seller shall notify the Buyer to confirm the schedule of daily Biogas nominations for each Delivery Point for the upcoming month based on Seller's projected daily Gas production at each of the Delivery Points.

**5. Vehicle Fuel Producer(s):**

<b>Primary Vehicle Fuel Producer(s):</b>	<b>Location:</b>
Clean Energy Fuels	At the Clean Energy Sites as listed in Exhibit C



Buyer shall have the right to amend this Biogas Transaction Confirmation in writing to amend the list of Vehicle Fuel Producer(s) in this Section 4 to reflect the termination of Biogas Contracts with Vehicle Fuel Producers or the execution of new or replacement Biogas Contracts with additional Vehicle Fuel Producers.

6. **Representations.** Each of the parties to this Addendum represents and warrants that, as of the Effective Date, (i) It has full and complete authority to enter into and perform this Biogas Transaction Confirmation; (ii) the person who executes this Biogas Transaction Confirmation on its behalf has full and complete authority to do so and is empowered to bind it thereby; and (iii) it is not insolvent and has not sought protection from its creditors under the United States Bankruptcy Code, or under any similar laws.

7. **Right to Extend Term.** Buyer and Seller may agree in writing to extend the Delivery Period of this Biogas Transaction Confirmation for two additional one (1) year periods; provided that, at least sixty (60) days prior to the expiration of the then-current Delivery Period, either Buyer or Seller provides the other party with written notice of its interest to extend the applicable period.

8. **Transfer of CARB LCFS Regulated Party Status (if Applicable).** Pursuant to Section 95484(a)(5)(D) of Title 17 of the California Code of Regulations for the Low Carbon Fuel Standard ("Section 95484(a)(5)(D)"), Seller hereby transfers to Buyer, and Buyer hereby accepts the Low Carbon Fuel Standard (LCFS) compliance obligation as the regulated party with respect to all Biogas sold by Seller to Buyer. In addition, in order to make such transfer effective as required under 95484(a)(5)(D), Seller, on a Calendar Quarter basis, shall provide the Buyer a production transfer document substantially similar to Exhibit A which shall prominently state the volume and average carbon intensity of the transferred fuel and that the Buyer is the regulated party for the acquired fuel and accordingly is responsible for meeting the requirements of the LCFS regulation with respect to fuel.

9. **EPA and CARB Registration Cost.**

a. **Renewable Fuel Standard Registration Cost.** Buyer and Seller shall share equally all costs associated with registration of, and ongoing costs associated with, the production facilities and fuel pathways in line with EPA requirements to provide RIN's. Seller will cooperate with Buyer and provide all necessary information required to complete registration. Seller shall be responsible for any ongoing reporting associated with integrity and compliance of the pathway.

b. **Low Carbon Fuel Standard Registration Cost (if applicable).** Buyer and Seller shall share equally all costs associated with registration of, and ongoing costs associated with, the production facilities and fuel pathways in line with CARB requirements to provide LCFS Credit. Seller will cooperate with Buyer and provide all necessary information required to complete registration.

10. **Process for Generation and Allocation of LCFS Credits (if applicable)**

a. **Seller Responsibilities and CARB LRT Account.**

i. In the Month following the end of a Calendar Quarter during the Term, Seller shall facilitate access for Buyer to any and all records relevant to determining the number of LCFS Credits so that Buyer can prepare the LCFS Credit generation and allocation data for submission to the Vehicle Fuel Producer or its agent.

ii. Seller shall work with ICF Resources and Weaver to register with CARB and comply with the relevant regulatory provisions of the Low Carbon Fuel Standard set forth in Title 17, California Code of Regulations in §§ 95480-95490, including, but not limited to, pathway registration, LCFS credit generation, quarterly progress reporting and annual compliance reporting.

iii. Seller shall maintain all records relevant to (1) the production and purchase and sale of Biogas, (2) Biogas transportation, distribution and (3) the sale of the Biogas purchased hereunder as it applies to LCFS Credits in accordance with the requirements of CARB.

b. **Buyer Responsibilities.**

i. Every Month during the Term, Buyer shall analyze the Monthly Biogas quantity purchased and received by Buyer under each Biogas Transaction Confirmation between Seller and Buyer and provide such data to Vehicle Fuel Producer.

ii. In the Month following the end of a Calendar Quarter during the Term, Buyer shall analyze the Monthly Biogas quantity sold and delivered from Seller under each Biogas Transaction Confirmation between Seller and Buyer and converted to a Vehicle Fuel by a Vehicle Fuel Producer to determine the Monthly quantity of LCFS Credits created for the Calendar Quarter.

iii. Based on the analysis in (i), Buyer shall prepare a Monthly report, for submission to the Vehicle Fuel Producer and Vehicle Fuel Producer's agent if applicable, between the fifteenth and eighteenth (15<sup>th</sup>-18<sup>th</sup>) Day of the Month, detailing the following:

- A. Biogas supplied to Buyer's meters and subsequently delivered to Vehicle Fuel Producer's meters;
- B. Buyer's estimated quantity of LCFS Credits to be allocated to Buyer and Vehicle Fuel Producer;

iv. Between the fifteenth and eighteenth (15<sup>th</sup>-18<sup>th</sup>) Day of the Month following the close of the calendar quarter (April 15-18, July 15-18, October 15-18 and January 15-18), Buyer shall prepare a production transfer document consistent with the CARB LCFS to validate the transfer of the regulated party status from Seller to the Buyer which states the volume and average carbon intensity of the transferred fuel and that the recipient (the Buyer) is the regulated party for the acquired fuel and

accordingly is responsible for the requirements of the LCFS regulation with respect to the acquired fuel.

**c. Change in Regulations.** In the event that (i) CARB amends its regulations for the generation and allocation of LCFS Credits as related to the purchase and sale of Biogas for the production of Vehicle Fuel or (ii) Washington State enacts a legislative and regulatory system for Green Attributes, Seller and Buyer shall work together in good faith and attempt to amend this Biogas Transaction Confirmation accordingly.

**11. Process for Generation and Allocation of RINs**

**a. Seller Responsibilities and EPA EMTS Account.**

i. On each Monday, or other mutually agreeable Day during the Delivery Period, Seller shall facilitate access for Buyer to any and all records relevant to determining the quantity of Biogas sold and delivered by Seller and purchased and received by Buyer during the prior week so that Buyer can prepare the data regarding RIN generation for submission to the Seller and Weaver.

ii. Based on the data submission specified in Section 11(a)(i), on each Tuesday, or other mutually agreeable day during the Term, Seller shall prepare and submit a product transfer document ("PTD") substantially similar to Exhibit B to the Buyer and Weaver, and Buyer shall cause Weaver to submit such data to the EPA EMTS account, detailing the following:

- A. RIN transferor and transferee company information and EPA company ID;
- B. Product information including Fuel Code;
- C. RIN quantity to generate and transfer;
- D. RIN Year;
- E. PTD number
- F. Any other data as required by the EPA RFS to generate and allocate RINs as requested by Seller or Weaver

iii. After the PTD has been executed within the EPA EMTS account, Buyer shall cause Weaver to supply a screenshot of the executed transfer detailing the following:

- A. RIN submission identification number and date;
- B. Transaction identification number date;
- C. Quantity of RINs generated and transferred to EPA EMTS Account 4320;
- D. PTD number;
- E. Other data necessary to document the generation and transfer of RINs to EPA EMTS Account 4320.

**b. Buyer Responsibilities.**

i. On each Monday, or other mutually agreeable day, during the Delivery Period, Buyer shall analyze the Biogas quantity sold and delivered by Seller and purchased and received by Buyer under this Biogas Transaction Confirmation and sold to the Vehicle Fuel Producer cited herein which converted such Biogas to a Vehicle Fuel to determine how many RINs were generated during the prior seven (7) Day period.

ii. Based on the analysis specified in Section 11(b)(i), Buyer shall prepare a report, for submission to Seller and Weaver, detailing the following:

- A. Biogas sold and delivered by Seller and purchased and received by Buyer at the Delivery Points
- B. Total Biogas sold under this Biogas Transaction Confirmation during the applicable Month that was subsequently sold by Buyer to Vehicle Fuel Producer cited in this Biogas Transaction Confirmation, converted by such Vehicle Fuel Producer to a Vehicle Fuel and distributed as a Vehicle Fuel.
- C. Biogas that Seller has delivered to Buyer but has not yet been converted Vehicle Fuel ("Virtual Storage")
- D. RINs to be created from Biogas purchased by Buyer from Seller.

**c. EPA EMTS Accounts:** The EPA EMTS account number to which RINs allocated to the Buyer should be allocated and deposited is 4320.

**d. Change in Regulations.** In the event that the EPA amends its regulations for the creation of RINs as related to the purchase and sale of Biogas for the production of Vehicle Fuel, Buyer and Seller shall work together in good faith and attempt to

amend this Biogas Transaction Confirmation accordingly.

**12. Additional Event of Default.** Each of the following shall be an additional Event of Default under Section 10.2 of the Base Contract: (a) if either party (i) commits any fraudulent act or (ii) makes any material misrepresentation or material inaccuracy or materially misleading statement in any supporting documentation, including, without limitation, registrations or any attestation related to RIN or LCFS Credit generation based on Biogas purchased under this Biogas Transaction Confirmation or (b) with respect to Seller, if the Start Date for the Delivery Period does not occur by the date that is six (6) months after the date of this Biogas Transaction Confirmation.

**13. Biogas Deliveries.** Biogas purchase and sales will not commence until the fifth (5<sup>th</sup>) Business Day that occurs after the EPA Approval Date, unless Seller agrees with BP Canada Energy Marketing Corp., or another Affiliate of Buyer, in writing to commence purchase and sale of Biogas at an earlier date, with such Biogas to be placed in storage pending completion of such EPA registration. Any amendment of the Contract or any new agreement, in any case providing for the storage of Gas or Biogas, shall require the prior approval of the King County Council before such amendment or new agreement shall be effective. In connection with the execution of any such amendment or new agreement, Seller shall deliver to Buyer in writing such approval of the King County Council.

**14. Hierarchy.** In the event of any Inconsistency between the Base Contract including the Addendum and this Biogas Transaction Confirmation, this Biogas Transaction Confirmation shall govern.

**16. Notice to Buyer Regarding Execution of this Biogas Transaction Confirmation.** Seller shall provide Buyer with written notice of the Effective Date via email not later than 12:00 pm pacific prevailing time on the Day prior to the Effective Date. Upon execution of this Biogas Transaction Confirmation on the Effective Date, Seller shall provide an electronic copy of the fully executed Biogas Transaction Confirmation to Buyer not later than 12:00 pm pacific prevailing time on the Effective Date. Such notices for this purpose only shall be directed to Ralph Epling at [Ralph.Epling@bp.com](mailto:Ralph.Epling@bp.com) with a copy to Art Bieser at [Art.Bieser@bp.com](mailto:Art.Bieser@bp.com).

Please confirm the foregoing correctly sets forth the terms of our agreement with respect to this Transaction by signing in the space provided below and returning a copy of the executed confirmation by faxing it to (281) 227-8470.

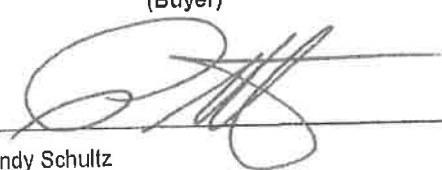
IGI Resources, Inc. (Buyer)	King County, through its Department of Natural Resources and Parks - Wastewater Treatment Division (Seller)
By:  Name: Randy Schultz Title: President Date: September 1, 2016	By: _____ Name: Gunars Srelbers Title: Acting Division Director Date: _____, 2016





Exhibit B

Template for RIN Production Transfer Document

Seller (Transferor):  
 EPA Company ID No.: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 \_\_\_\_\_

Seller (Transferor):  
 EPA Company ID No.: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 \_\_\_\_\_

Contact Information:  
 Name: \_\_\_\_\_  
 Telephone: \_\_\_\_\_  
 Email: \_\_\_\_\_

Contact Information:  
 Name: \_\_\_\_\_  
 Telephone: \_\_\_\_\_  
 Email: \_\_\_\_\_

Product Information:           • Biogas as defined in 40 CFR 80.1401  
                                      • RINs generated using landfill biogas production for transportation fuel

Transfer Period                   Month X-Y, 201Z

Tracked Data:

No.	Parameter	Data
1	Transaction Partner Organization Identifier	
2	Transaction Partner Organization Name	
3	RIN Quantity	
4	Batch Volume	
5	Fuel Code	
6	Assignment Code	
7	RIN Year	
8	Sell Reason Code	
9	RIN Price Amount	
10	Gallon Price Amount	
11	Transaction Date	
12	Production Transfer Number	
13	Transaction Detail Comment	
14	Supporting Document (Text 1)	
15	Supporting Document Number (Text 1)	
16	Supporting Document Number (Text 2)	
17	Supporting Document Number (Text 3)	

EXHIBIT C

DELIVERY POINTS AND ESTIMATED DAILY GAS QUANTITIES (MMBTU/DAY)

<b>PUGET SOUND ENERGY</b>	<b>MAXIMUM DAILY</b>	
<u>METER LOCATIONS</u>	<u>QUANTITY (MMBTU/DAY)</u>	<u>UTILITY</u>
SeaTac	120	PSE
Spokane Street	150	PSE
Bellevue	50	PSE
CleanScapes	380	PSE