



## BOARD OF DIRECTORS SPECIAL BOARD MEETING

Tuesday, January 17, 2023 @ 4:00 P.M.

In-Person & ZOOM Meeting

2525 Phillips Field Road, Fairbanks, AK

### DRAFT AGENDA

\*This meeting will be held both in person and telephonically. Packets will be available to the public outside the door of the IGU Office.\*

#### Join Zoom Meeting

<https://us02web.zoom.us/j/83865149488?pwd=cEhuNzFicFVMeVlVWHJlc1dtc1JVZz09>

1-253-215-8782

**Meeting ID:** 838 6514 9488

**Password:** 673543

#### I. CALL TO ORDER

- Roll call
- Approval of Agenda
- Public Comment – *limited to three minutes*

#### II. NEW BUSINESS

- LNG & Gas Supply
  - Gas Supply Presentation.....Page 04
  - Board Memorandum 2023-01  
Management Recommendation for Gas Supply .....Page 21
    - NewGen IGU Financial Forecast and Pro Forma Review .....Page 36
- Resolution 2023-01 .....Page 64  
A RESOLUTION AUTHORIZING THE GENERAL MANAGER OF THE INTERIOR GAS UTILITY TO EXECUTE A GAS SALE AND PURCHASE AGREEMENT BETWEEN IGU AND HILCORP NORTH SLOPE, LLC AND AN LNG MANUFACTURING SERVICE AGREEMENT BETWEEN IGU AND HARVEST ALASKA LNG, LLC
- Resolution 2023-02 .....Page 188  
A RESOLUTION AUTHORIZING THE GENERAL MANAGER OF THE INTERIOR GAS UTILITY TO EXECUTE THE FIRST AMENDMENT TO THE GAS SALE AND PURCHASE AGREEMENT DATED JANUARY 1, 2021 BETWEEN IGU AND HILCORP ALASKA, LLC

#### III. DIRECTOR REQUESTS FOR IGU INFORMATION

#### IV. CLOSING COMMENTS

- General Manager
- IGU Attorney
- Directors

#### V. ADJOURNMENT

THE AGENDA ITEMS AS LISTED MAY NOT BE CONSIDERED IN SEQUENCE.  
THIS AGENDA IS SUBJECT TO CHANGE TO INCLUDE THE DELETION OF ITEMS OR EXECUTIVE SESSIONS, IF NEEDED.

# Public Comment

*Limited to 3 minutes*

# Gas Supply Presentation



# **GAS SUPPLY**

Analysis of options and management recommendation



# CURRENT STATUS

## Feed Gas

IGU has a feed gas contract with Hilcorp in the Cook Inlet that satisfies the utility's current customer needs until 2032.

## Liquefaction

IGU operates a Liquefaction facility (Titan) located in the Cook Inlet that has the capacity to produce 50,000 gallons of LNG per day. The LNG is then transported to Fairbanks and North Pole via truck on the Parks Highway.





# FUTURE NEEDS

## Liquefaction

In order to support its projected growth and to continue fulfilling its mission, IGU needs additional liquefaction capacity as soon as 2024.

## Feed Gas

Hilcorp informed all utilities sourcing natural gas in the Cook Inlet that they should not rely on contractual renewals moving forward.



# **GAS SUPPLY EXPANSION OPTIONS**

## **Titan 2 or No Action**

Expansion of the Titan facility as evaluated in 2019 (improbable) or no action

## **Pt. McKenzie Incremental Expansion**

Installation of a modular, temporary plant next to Titan

## **Canadian LNG Import**

Purchasing LNG from Canadian producers

## **North Slope LNG supply**

Contractual agreement with a third party LNG producer

# TITAN EXPANSION (OR NO ACTION)

- Titan 2 would be the most likely management recommendation in the absence of the recent Hilcorp announcement
- Two years construction time
- Total IGU liquefaction capacity at completion - 150,000
- If gas was available long term, it would allow IGU to grow according to proforma

# TITAN EXPANSION (OR NO ACTION), CONTINUED

- Additional debt financing of \$60MM + through bonds would be necessary. Given uncertainty of future gas supply, management does not believe IGU would be able to secure reasonable financing.
- Not taking any action and waiting in the Cook Inlet in hopes of new gas being discovered has negative consequences:
  - No capacity for new customers
  - Any new gas, if any, would likely be more expensive
  - IGU would likely have to build an LNG plant on the North Slope prior to 2032, to meet current customer needs at an unknown future cost
- Management recommends against the Titan Expansion given the insecurities of gas supply at this time. Management also recommends against taking no action given the same gas supply concerns and likely need to incorporate higher cost supply solutions in the future to meet current customer needs.

# PT. MACKENZIE INCREMENTAL EXPANSION

- Cryopeak LNG Solutions would finance, and construct a 50,000 gallon/day liquefaction facility on IGU's PT. MacKenzie property
- Payment would be made through a supply agreement with minimum annual volume commitments
- Construction time - 2 years
- Management recommends against this option as it would have heavy impact on rates and it does not solve the supply issue past 2032

# CANADIAN LNG IMPORT

- IGU evaluated multiple proposals from Canadian companies, that included barging, transporting by rail, and trucking.
- Management recommends against these options, as they would each results in higher costs to IGU and its customers and would create a high level of risk related to natural gas commodity pricing and currency exchange rate.

# NORTH SLOPE GAS SUPPLY OPTION

## MANAGEMENT RECOMMENDS THIS OPTION

- Harvest Midstream is a company providing a wide range of services for oil and natural gas, including gathering, transportation, processing and treatment
- Harvest is ready to build and operate a 150,000 gallons/day LNG plant on the North Slope with a targeted commencement date of October 2024
- Hilcorp and IGU will coordinate gas supply between IGU's current contract and a new, North Slope contract



# PARTIES

Hilcorp provides Harvest with gas supply on IGU's behalf. The two are not contractually-bound for the purpose of this agreement



Hilcorp North Slope, LLC  
**Gas Producer/Seller**



Interior Gas Utility  
**Customer**



Harvest Alaska LNG, LLC  
**LNG Producer/Seller**

Gas Sale and  
Purchase Agreement

LNG Manufacturing  
Service Agreement

# MAJOR TERMS

## Contract term

20 years:  
October 2024-June 2045;  
ability to increase term under  
Harvest and Hilcorp contracts

## Capacity

150,000 gallons/day,  
additional LNG production  
trains as necessary with  
potential for increased  
capacity

## Commitments

IGU to be the priority  
customer and to exclusively  
buy LNG from Harvest, unless  
IGU's needs exceed Harvest  
capacity

## Schedule

IGU will not need all the LNG  
the plant can produce in the  
earlier years. The plant will  
shut down in the summer to  
account for smaller demand

## Trucking

Potential options: contracts  
with trucking companies; IGU  
trucking or Harvest trucking

## ROFR

IGU has the right of first  
refusal in the event of an LNG  
plant sale.

# MAJOR TERMS - MVC

## Volumes

Minimum Volume Commitment (MVC) to go up each year, trailing under the utility's projected proforma growth. IGU can request additional volumes in excess of the MVC up to Harvest's 150,000 (12,400 MCF) gpd capacity.

IGU growth according to proforma is critical to our ability to maintain rates as predicted.

Fiscal Year	Proforma MCF	MVC MCF
Contract Year 0	1,535,098	1,199,892
2026	1,917,633	1,299,883
2027	2,262,682	1,399,874
2028	2,603,893	1,549,860
2029	2,906,943	1,799,837
2030	3,157,667	2,099,810
2031	3,157,667	2,349,788
2032	3,157,667	2,549,770
2033	3,157,667	2,699,756
2034	3,157,667	2,799,747
2035	3,157,667	2,899,738
2036	3,157,667	2,999,729
2037	3,157,667	2,999,729
2038	3,157,667	3,049,725
2039	3,157,667	3,049,725
2040-2045	3,157,667	3,057,724

# PRICE AND RATE IMPACT

## Feed stock (Hilcorp)

\$2.50/MCF - Contract Years 1-5 (fixed)  
2% annual escalation - Contract Years 6 -20

## Liquefaction (Harvest)

Cost/MCF for Base Volumes: \$8.75  
Cost/MCF for Excess Volumes: \$4.25

Escalation factor, tied to the Producers Price Index (PPI) based on Base Volume Fee minus \$4.00 and Excess Volume Fee minus \$2.00 multiplied by the escalation factor for the applicable year:

- for contract years 1 through 5 - 1%;
- for contract year 6 and thereafter floor of 0%, ceiling of 2%,

## Customer rates

While two of the major cost components have set, negotiated prices, one important element remains variable - trucking.

Preliminary estimates indicate a customer rate range between ~\$21.8/MCF (current pricing) and ~\$26/MCF for the duration of the contract. At the highest estimated cost, natural gas will remain competitive if heating fuel is \$3.51 or more.

IGU will do everything in our power to keep rates low and avoid the projected increases if possible.

# MAJOR TERMS

## Force Majeure

Any party can declare Force Majeure in an unpredicted event that is not within the party's control, within contractual specifications.

IGU has a cap of a cumulative 270 days of Force Majeure for IGU Force Majeure Events, the duration of the Harvest contract, which results in a reduction to IGU's MVC. Events beyond the cumulative 270 days require IGU to continue to make MVC payments regardless of Force Majeure status.

## Cover gas or LNG

Under certain conditions resulting in supply disruptions, IGU is able to obtain gas or LNG from a different source and have Hilcorp or Harvest reimburse us for the cost difference.

Cover clauses:

- Service unavailability is not a result of Force Majeure
- IGU's storage capacity goes under 10 days
- If Titan is operational and available, IGU will produce LNG at Titan
- Harvest's liability is capped at 25% of the annual MVC x the then current base service fee.
- If IGU is not able to obtain cover in 30 days, Harvest will pay liquidated damages.



## Strengths

- A 20 year contract with Harvest with extension options, coupled with a matching term with Hilcorp gives long term certainty of price and supply stability for major cost components of IGU
- IGU has the right of first refusal should Harvest decide to sell the plant
- Gas purchased from Hilcorp will be measured as LNG delivered by Harvest to IGU and it excludes the natural gas used in the production of LNG reducing risk to IGU
- Gas supplier and LNG producer are affiliates and have similar interests, with an increased level of collaboration
- Harvest is a reputable company operating substantial assets in Alaska with significant experience in constructing and operating similar projects
- Harvest is ready to make final investment decisions and start building the plant on the North Slope with an estimated start date in late 2024
- Titan LNG plant will be utilized to satisfy demand needs until the Harvest plant becomes operational, then remains in warm status providing back-up and additional security of supply.
- Hilcorp and IGU have coordinated contracts between the current, Cook Inlet contract and the new contract required to move LNG production to the North Slope
- State and permitting agencies appear collaborative and supportive of the project
- The project does not produce a significant, long term rate increase and results in predictability and stability of rates
- Colder LNG will result in less offloading issues



## Weaknesses

- Requires annual Minimum Volume Commitments (MVC) creating demand growth risk
- Longer distance for trucking, causing:
  - Increased transportation cost
  - Longer turnaround time
  - Need for additional trailers and a need for a significant investment in them
  - Need for more drivers during a time of driver shortages and anticipated high demand
- Keeping Titan on warm status causes increased operating costs
- IGU would no longer have operational control of LNG production
- Potential additional facilities and/or land required for dispatching/staging/repair of trailer fleet, to include personnel to operate a facility or a third-party contractor





## Opportunities

- Titan Plant will be available for future LNG production or other opportunities
- Significant proven natural gas supply on the North Slope
- Option for two additional 150,000 gallon/day trains
- Harvest may be interested in providing trucking of LNG to IGU
- Annual Minimum Volume Commitment (MVC) is lower than projected consumption and excess volume comes at a significantly lower base service fee compared to the firm MVC volumes
- IGU has two, unilateral 5-year extension options bringing the total potential contract time to 30 years
- This project would result in the first deliveries of Natural Gas from the North Slope, possibly opening the door for opportunities to benefit other Alaskans through expansion



## Threats

- LNG transports may be subject to greater adverse weather during winter and breakup periods
- Increased trucking activity in Alaska, including several big projects that have the potential to increase trucking costs and to limit workforce availability in the field
- Dependence on third party for LNG production
- Should an Alaska Gas line become functional during the contract period, IGU may be missing the opportunity for lower cost natural gas for a period of time
- The public's opinion may be divided. Not everyone will consider a large investment in LNG a good decision, especially given some believe a large-scale Alaska pipeline and LNG project from the North Slope may be imminent
- Potential start date delays due to supply chain, contractor delays, or other similar issues
- Potential permitting issues resulting in contract termination prior to construction
- Market deterioration, as a result of a significant reduction in heating oil prices or other causes, resulting in IGU demand below MVC resulting in higher rates

## Board Memorandum 2023-01

### Management Recommendation for Gas Supply





**Interior Gas Utility  
BOARD MEMORANDUM  
No. 2023-01**

Meeting Date: January 17, 2023  
Approved: \_\_\_\_\_

**1 Management Recommendation for Gas Supply**

2 The Interior Alaska Natural Gas Utility (IGU) Management has been evaluating options related to Gas  
3 Supply, including the expansion of Liquefied Natural Gas (LNG) production and the optimization of such  
4 expansion related to capital expense and the desired security of supply.

5 Below is a discussion of the options considered including management's recommendation and analysis  
6 of the main criteria analyzed, shown in Appendix B – Gas Supply Analysis Matrix. This Matrix provides for  
7 a ranking of the options evaluated, with the highest scored option being recommended.

**8 Background**

9 IGU owns and operates an LNG production facility in Pt. MacKenzie (Titan). The Titan facility was  
10 constructed in 1997 and has been in continuous operation since 1998. It has expanded since its original  
11 installation to its current daily production capacity of approximately 50,000 gallons per day.

12 IGU sources natural gas for feed stock to the LNG production facility from the Cook Inlet and is in year  
13 two of a five-year supply contract with Hilcorp. IGU does have two, three year extensions as a part of  
14 the contract, creating security of supply until 2032.

15 The LNG produced at Titan is transported, via Parks Highway, to one of IGU's four storage and  
16 vaporization facilities with a total capacity of approximately 5.5 MM gallons: one in Talkeetna, serving  
17 the Talkeetna Lodge, one in North Pole and two in Fairbanks. From the storage facilities, the LNG is re-  
18 gasified and distributed by distribution pipelines to residential and commercial customers.

19 Expansion of natural gas use in the Fairbanks North Star Borough (FNSB) necessitates an increased  
20 supply of LNG. In 2019, IGU evaluated the expansion of Titan and completed 65% design for an  
21 estimated \$50 MM at the time project to add an additional 100,000 gallons per day of liquefaction  
22 capacity (Titan 2). During the evaluation phase, the COVID-19 pandemic ensued, resulting in a significant  
23 decrease in oil prices and increased economic uncertainty, while simultaneously creating supply chain  
24 issues and labor shortages. IGU postponed the final investment decision on LNG expansion until the  
25 negative economic impacts and uncertainty created by COVID-19 stabilized.

26 In April of 2022, Hilcorp announced to all utilities purchasing natural gas from them in the Cook Inlet  
27 that the utilities should not rely on contract renewals past current contractual commitments.  
28 Considering that announcement, IGU started evaluating available options. Below is a summary of  
29 analyzed alternatives, along with the management recommendation for one of the alternatives.

## **Titan 2**

Building Titan 2 would be the most likely management recommendation to the IGU board in absence of the recent Hilcorp notice regarding the uncertainty of a future Cook Inlet contract renewal, and the subsequent uncertainty related to the availability of a sustainable affordable gas supply from the Cook Inlet. Given the current high inflationary environment, the estimated cost for the Titan expansion has escalated and is likely to cost more than \$60 MM. The project would take approximately two years to complete and would triple IGU's current liquefaction capacity - from 50,000 gallons per day to a combined 150,000 gallons per day. The construction of Titan 2 would necessitate additional debt financing through a new conduit revenue bond placement. However, if gas was available long term, it would keep rates relatively stable for at least the next 10 years and would allow IGU to grow according to current proforma, provided additional liquefaction capacity (Titan 3) is added and sufficient gas supply is secured as demand dictates.

IGU management does not believe that it would be possible to attract the necessary funds for Titan 2. Any investment in an asset that may become limited in use or unusable in less than 10 years would not be viewed as a favorable project in the financial market. Even if we were able to secure the funding, IGU management recommends against this option given the uncertainty of future gas availability in the Cook Inlet. It is believed the Cook Inlet basin has undiscovered potential, however, given the high level of uncertainty regarding future gas availability and price, going forward with this option is no longer prudent.

## **No Action**

One of the options IGU could choose is to wait in the Cook Inlet in hopes that a solution is found, but not invest in additional liquefaction for the reasons described above. However, after the 2023 construction season, IGU will not have sufficient liquefaction capacity to be able to add additional new customers without a long-term secure LNG or gas source identified. The consequence of this option results in IGU pausing our mission of providing clean-burning natural gas to the most people in the FNSB, as soon as possible and at the lowest possible cost, until a new source of long-term LNG or gas supply is available.

IGU management recommends against this option. Any potential new gas discovered in the Cook Inlet will likely be at a different, higher price, taking into consideration the new investment an exploration company would have to make to find said gas. All currently known information points to the possibility of sufficient gas in the Cook Inlet to satisfy all Cook Inlet future demand being very low. The most likely scenario would be that, as IGU nears expiration of the Hilcorp contract extensions in 2032, we would have to make our own significant investment in liquefaction somewhere outside of the Cook Inlet, likely on the North Slope. The new investment would be subject to hurdles such as project development costs, inflationary effects, regulatory constraints, rate pressure, and procurement issues.

*Note: Because securing reasonable financing for Titan 2 is unlikely given gas availability outlook, and IGU management feels that a substantial investment in Cook Inlet, even absent financing issues is not prudent, the Titan 2 option is viewed as being the same as the No Action option for the purposes of further analysis.*

## **Canadian LNG Import**

IGU has evaluated multiple proposals from LNG production, marketing and supply companies utilizing natural gas feed stock and LNG production facilities in British Columbia and Alberta, Canada. The proposals included barging LNG in ISO containers to a Port in Alaska then transporting by rail or truck to IGU facilities. Proposals for trucking LNG from Canadian LNG production facilities to IGU facilities in Alaska were also evaluated.

IGU management recommends against relying on Canadian LNG import as a long term, permanent solution. Each of these proposals result in higher costs to IGU and its customers and would create a high level of risk related to natural gas commodity pricing and currency exchange rate. Even when the gas commodity is extremely low and the US dollar is strong compared to the Canadian dollar, these LNG supply solutions still result in higher LNG prices given the high cost of transporting the LNG. Of particular concern is the exposure to commodity risk these options create. IGU would be responsible for increases in gas costs as a flow-through pricing mechanism of these options. As has been experienced recently, most places in the US and Canada have seen significant increases in gas cost.

IGU has utilized Canadian suppliers for backup and supplemental LNG in the past and will continue to consider these as backup supply options in the future.

## **Cryopeak - Pt. MacKenzie Incremental Expansion**

Cryopeak LNG Solutions (Cryopeak) is located in British Columbia, Canada and specializes in LNG production, procurement, transportation and LNG onsite equipment and support. IGU has purchased LNG from Cryopeak on an as-needed basis to supplement its own production and as a backup supply in the last two years.

IGU and Cryopeak explored alternatives to the expansion of the Titan facility, including increased barging and trucking from Canada. Given these options resulted in higher cost to IGU and its customers, Cryopeak proposed an alternative to Titan 2, as follows:

Cryopeak proposed to finance, engineer, and construct a turn-key 50,000 gallon/day liquefaction facility on IGU's Pt. MacKenzie property, adjacent to the existing Titan facility. IGU would be responsible for the feed gas, power supply and utilities for the facility and would operate the plant as an additional LNG train. Payment would be made through a supply agreement with minimum annual volume commitments at levels close to the facilities' annual production level. The modular liquefaction plant would be operational in approximately two years following a signed agreement by IGU. The Cryopeak option would allow IGU more time in the Cook Inlet in hopes that a new long term gas supply option could be identified, without the need for IGU to make an immediate capital investment in additional liquefaction capacity. IGU would be able to continue its growth projections under current proforma, until such date as demand exceeds the combined capacity of the Titan facility and the proposed Cryopeak liquefaction train.

IGU management recommends against this option. Based on the information we have today, this is a temporary solution that will lead to undue burden to IGU rates. The increased cost from the third party investment in LNG production will result in increased rates as soon as the plant becomes operational,

106 then additional rate pressure as IGU is forced to invest in new LNG production capacity, likely on the  
107 North Slope, prior to the expiration of the current Cook Inlet gas supply agreement.

108 **Harvest Alaska LNG, LLC / Hilcorp North Slope, LLC (North Slope Gas Supply)**

109 Harvest Midstream is a midstream company with a footprint expanding into seven states, providing a  
110 wide range of services for oil and natural gas, including gathering, transportation, processing, and  
111 treatment across the country while also managing marine terminals. Harvest Alaska LNG, LLC is a  
112 subsidiary of Harvest Midstream. Harvest is an affiliate of Hilcorp.

113 With IGU board approval, Harvest is ready to build and operate a 150,000 gallons per day LNG plant on  
114 the North Slope. IGU and Hilcorp have negotiated agreements coordinating a gas supply contract from  
115 the Cook Inlet to the North Slope, coinciding with the start date of the Harvest LNG Plant, projected to  
116 be in the 4th calendar quarter of 2024.

117 Compared with the status quo, the Harvest option would offer lower feed gas cost, higher LNG  
118 production cost, higher transportation cost, and lower capital investment. All these factors combined  
119 result in IGU's ability to keep rates relatively stable and comparable with status quo over the long term,  
120 as indicated in the financial presentation.

121 IGU Management recommends this option, coupled with keeping Titan on warm status for the  
122 foreseeable future for backup, as necessary to ensure security of LNG supply. Major terms of the LNG  
123 Manufacturing Service Agreement between IGU and Harvest, the Gas Sale and Purchase Agreement  
124 between IGU and Hilcorp North Slope, LLC, as well as an analysis of the Strengths, Weaknesses,  
125 Opportunities, and Threats of this course of action are presented below.

126 **LNG Manufacturing Service Agreement – Major Terms**

Item	Topic	Term
1	Parties	Service Provider: Harvest Alaska LNG, LLC (Harvest)  Customer: Interior Gas Utility (IGU), who will be responsible for transportation of LNG to the Fairbanks North Star Borough (FNSB) area. IGU will maintain offloading and storage facilities in the FNSB.
2	General Scope	Service Provider to build an LNG manufacturing plant near Deadhorse, Alaska, with a minimum of 150,000 gallons per day capacity to manufacture LNG. Service Provider will transfer LNG to Customer at the LNG plant for Customer to transport to the Customer's facilities in the FNSB.
3	Term	A 20-year contract with a target commencement date of October 2024. Two, five-year term extension options at IGU's discretion, provided that the extensions do not result in cumulative negative cash flow for Harvest.

4	Commitments	Customer commitments will have priority ahead of Manufacturer's other LNG commitments. IGU will exclusively buy LNG from Harvest, unless IGU needs more LNG in any given day than Harvest's plant can produce, or there is a service unavailability.
5	Volumes	<p>A Minimum Volume Commitment (MVC) to go up each year, trailing under IGU's projected proforma growth (Attachment A). IGU can request additional volumes in excess of the MVC, up to Harvest's 150,000 gallons per day capacity</p> <p>Should IGU's LNG requirements in any given month exceed Harvest's capacity to deliver, IGU may secure other supplies. Should IGU request firm capacity greater than Harvest's capacity at the LNG plant, Harvest may expand the plant's capacity as needed to meet IGU's firm capacity requirement.</p> <p>Should Harvest have periods of service unavailability beyond 20 days in 2024 or 2025, or beyond 10 days in 2026 and beyond, IGU will be entitled to an MVC reduction. The contract has cover provisions that would allow IGU to recover costs from Harvest, should the utility need to purchase LNG from an alternative source as a result of Harvest's failure to deliver.</p>
6	Cover	<p>If service unavailability is not a result of Force Majeure, and IGU's storage capacity is projected to drop below 10 days, as measured by current daily consumption at the time of service unavailability, IGU can obtain cover LNG from a secondary source. Harvest will reimburse IGU for the cost difference between what IGU would have paid to get LNG from the Harvest facility and actual cost. For as long as IGU operates the Titan liquefaction facility in Pt. MacKenzie, and as long as other contractual commitments allow it, and feed gas is available, IGU will produce and transport LNG from the Cook Inlet. Otherwise, LNG can be obtained from any other reasonable source.</p> <p>There are contractual provisions regarding cover as follows:</p> <ol style="list-style-type: none"> <li>1. If IGU is able to obtain cover LNG, Harvest's liability will not exceed 25% of the annual MVC multiplied by the then current base service fee.</li> <li>2. If IGU is not able to obtain cover LNG within 30 days from the beginning of service unavailability, Harvest will pay IGU liquidated damages in the amount of 2 times the base service fee. Harvest's liability will not exceed 25% of the annual MVC multiplied by the then current base service fee</li> </ol>

7	Force Majeure	<p>Either party can declare Force Majeure in an unpredicted event that is not within the party's control, such as weather events, fire, explosions, war, considerable facility damage that deems facilities inoperable, etc. Delay in construction and completion of the LNG facility until September 30, 2025 does constitute Force Majeure in the negotiated contract.</p> <p>Should either party claim Force Majeure for more than 10 days/year, if IGU has previously scheduled to lift LNG, IGU will be entitled to a reduction in its Minimum Volume Commitment.</p> <p>For IGU Force Majeure event there is a cap of a cumulative 270 days of Force Majeure for the duration of the contract, which results in a reduction to IGU's MVC. Events beyond the cumulative 270 days require IGU to continue to make MVC payments regardless of Force Majeure status. Recognizing Harvest's considerable original investment in the project, their Force Majeure does not have a cap, but such events do result in a reduction to IGU's MVC.</p>
8	Price	<p>Cost/MCF for Base Volumes: \$8.75</p> <p>Cost/MCF for Excess Volumes: \$4.25</p>
9	Annual escalation	<p>There is an escalation factor, tied to the Producer Price Index for Finished Goods as reported annually by the Bureau of Labor and Statistics. The Escalation Factor applies to the Base Service Fee - \$4.00 / MCF and the Excess Service Fee - \$2.00 / MCF :</p> <ol style="list-style-type: none"> <li>1. for contract years 1 through 5, the escalation factor is 1.0%;</li> <li>2. for contract year 6 and thereafter through the term, the escalation factor shall not exceed 2.0% and shall not be less than 0% with each party being able to roll the escalation to the following year, until fully reflected into the escalation factor.</li> </ol>
10	Transportation	<p>IGU is responsible for transportation from the LNG facility to our facilities in the FNSB. IGU could contract with a trucking contractor, similar to current arrangements from the Cook Inlet, or purchase necessary equipment and hire the drivers needed to fulfill that requirement in-house. Alternatively, Harvest may agree, under a separate transportation contract, to deliver LNG to IGU.</p>

11	Other Terms	<p>Gas Supply will be provided by Customer via a Gas Sale and Purchase Agreement with Hilcorp North Slope, LLC.</p> <p>If Harvest decides to sell the LNG plant, IGU has the right of first refusal (ROFR) and can elect to purchase it.</p> <p>It is recognized in the agreement that IGU will not need all of the LNG the 150,000 gallons per day plant will produce, in the early years. The plant will shut down during the summer to account for the smaller demand.</p> <p>IGU may terminate the agreement if a major gas sale on the North Slope (such as the construction of a major pipeline) occurs and Hilcorp elects to terminate the Gas Sale and Purchase Agreement. Should that occur, Harvest has the right to secure an alternative gas supply at a maximum price of 125% of the then current price under the Hilcorp North Slope, LLC Gas Sale and Purchase Agreement, with all other terms being not less favorable to IGU.</p>
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127 **Gas Sale and Purchase Agreement – Major Terms**

Item	Topic	Term
1	Parties	Hilcorp North Slope, LLC – gas producer and seller Interior Gas Utility (IGU) – buyer/customer
2	General Scope	Seller to provide natural gas to customer at Harvest’s LNG plant near Deadhorse Alaska.
3	Term	A 20-year contract effective October 2024 or the Commencement Date as defined in the LNG Service Agreement. Two, five-year term extension options at IGU’s discretion, with appropriate notification.
4	Volumes	Hilcorp North Slope, LLC will provide IGU all of its requirements up to a Maximum Daily Quantity of 25 MMCF / Day
5	Measurements	The volume of gas purchased by IGU will be determined based on the volume of LNG that is delivered by Harvest under the LNG Manufacturing Service Agreement. This presents an advantage to IGU, as the utility is not responsible for the gas used in the production of LNG.
6	Price	\$2.50/MCF - Contract Years 1-5 (fixed)
7	Annual escalation	2% - Contract Years 6 -20, with a possible reduction if a CPI index is negative more than 1.5%.
8	Other Terms	Amendment to the Gas Sale and Purchase Agreement between IGU and Hilcorp Alaska, LLC dated January 1, 2021 (Cook Inlet Agreement), to eliminate IGU minimum purchases and Hilcorp Alaska, LLC commitment to supply beyond 1 year following the Commencement Date of the North Slope LNG Service Agreement and terminating IGU’s term extension option rights.  Hilcorp North Slope, LLC may terminate the agreement upon occurrence of a major gas sale from the North Slope, such as the construction of a major natural gas pipeline. The termination may not occur prior to the 10 <sup>th</sup> contract year and requires a 365-day continuation after notice is provided.



128 **SWOT Analysis of Management Recommended Option –**  
129 **Harvest Alaska LNG, LLC / Hilcorp North Slope, LLC**

130 **Strengths**

- 131 • A 20 year contract with Harvest with extension options, coupled with a matching term with  
132 Hilcorp gives long term certainty of price and supply stability for major cost components of IGU
- 133 • IGU has the right of first refusal should Harvest decide to sell the plant
- 134 • Gas purchased from Hilcorp will be measured as LNG delivered by Harvest to IGU and it excludes  
135 the natural gas used in the production of LNG reducing risk to IGU
- 136 • Gas supplier and LNG producer are affiliates and have similar interests, with an increased level  
137 of collaboration
- 138 • Harvest is a reputable company operating substantial assets in Alaska with significant  
139 experience in constructing and operating similar projects
- 140 • Harvest is ready to make final investment decisions and start building the plant on the North  
141 Slope with an estimated start date in late 2024
- 142 • Titan LNG plant will be utilized to satisfy demand needs until the Harvest plant becomes  
143 operational, then remains in warm status providing back-up and additional security of supply.
- 144 • Hilcorp and IGU have coordinated contracts between the current, Cook Inlet contract and the  
145 new contract required to move LNG production to the North Slope
- 146 • State and permitting agencies appear collaborative and supportive of the project
- 147 • The project does not produce a significant, long term rate increase and results in predictability  
148 and stability of rates
- 149 • Colder LNG will result in less offloading issues

150 **Weaknesses**

- 151 • Requires annual Minimum Volume Commitments (MVC) creating demand growth risk
- 152 • Longer distance for trucking, causing:
  - 153 ○ Increased transportation cost
  - 154 ○ Longer turnaround time
  - 155 ○ Need for additional trailers and a need for a significant investment in them
  - 156 ○ Need for more drivers during a time of driver shortages and anticipated high demand
- 157 • Keeping Titan on warm status causes increased operating costs

- 158 • IGU would no longer have operational control of LNG production
- 159 • Potential additional facilities and/or land required for dispatching/staging/repair of trailer fleet,
- 160 to include personnel to operate a facility or a third-party contractor

## 161 **Opportunities**

- 162 • Titan Plant will be available for future LNG production or other opportunities
- 163 • Significant proven natural gas supply on the North Slope
- 164 • Option for two additional 150,000 gallon/day trains
- 165 • Harvest may be interested in providing trucking of LNG to IGU
- 166 • Annual Minimum Volume Commitment (MVC) is lower than projected consumption and excess
- 167 volume comes at a significantly lower base service fee compared to the firm MVC volumes
- 168 • IGU has two, unilateral 5-year extension options bringing the total potential contract time to 30
- 169 years
- 170 • This project would result in the first deliveries of Natural Gas from the North Slope, possibly
- 171 opening the door for opportunities to benefit other Alaskans through expansion

## 172 **Threats**

- 173 • LNG transports may be subject to greater adverse weather during winter and breakup periods
- 174 • Increased trucking activity in Alaska, including several big projects that have the potential to
- 175 increase trucking costs and to limit workforce availability in the field
- 176 • Dependence on third party for LNG production
- 177 • Should an Alaska Gas line become functional during the contract period, IGU may be missing the
- 178 opportunity for lower cost natural gas for a period of time
- 179 • The public's opinion may be divided. Not everyone will consider a large investment in LNG a
- 180 good decision, especially given some believe a large-scale Alaska pipeline and LNG project from
- 181 the North Slope may be imminent
- 182 • Potential start date delays due to supply chain, contractor delays, or other similar issues
- 183 • Potential permitting issues resulting in contract termination prior to construction
- 184 • Market deterioration, as a result of a significant reduction in heating oil prices or other causes,
- 185 resulting in IGU demand below MVC resulting in higher rates

186    **ATTACHMENTS:**

187    Attachment A: Proforma v. Minimum Volume Commitments (MVC)

188    Attachment B: Gas Supply Analysis Matrix

189    Submitted by: Dan Britton, General Manager

Attachment A: Proforma v. MVC volumes

<b>Fiscal Year</b>	<b>Proforma MCF</b>	<b>MVC MCF</b>
Contract Year 0	1,535,098	1,199,892
2026	1,917,633	1,299,883
2027	2,262,682	1,399,874
2028	2,603,893	1,549,860
2029	2,906,943	1,799,837
2030	3,157,667	2,099,810
2031	3,157,667	2,349,788
2032	3,157,667	2,549,770
2033	3,157,667	2,699,756
2034	3,157,667	2,799,747
2035	3,157,667	2,899,738
2036	3,157,667	2,999,729
2037	3,157,667	2,999,729
2038	3,157,667	3,049,725
2039	3,157,667	3,049,725
2040-2045	3,157,667	3,057,724

## Attachment B: Gas Supply Analysis Matrix

1 IGU management used the Gas Supply Analysis Matrix below to evaluate the options considered based  
2 on objective criteria. Each of the scoring criteria was weighted based on IGU's priorities and industry  
3 standards as a natural gas utility. IGU's mission is to provide reliable, low cost natural gas service to as  
4 many customers in the Fairbanks North Star Borough as possible, as soon as possible. This matrix was  
5 developed with IGU's mission in mind.

6 The most important considerations were the schedule and longevity risk, the availability and reliability  
7 of gas and LNG supply, and the rate impact, which is why they each received a weighting of 10 out of 10.  
8 The schedule and longevity risk scored the four options based on their ability to supply the required  
9 amount of gas and LNG to satisfy all IGU requirements until 2032 (when the last extension of IGU's  
10 current gas supply contract in the Cook Inlet expires) and after 2032, when IGU would need to have an  
11 alternative that is ready to take over for the gas supply deficit IGU would experience at that time. The  
12 availability and reliability of gas and LNG supply evaluate the degree to which gas and LNG is readily  
13 available when needed and IGU has contractual control over. Lastly, the impact to customer rates was  
14 highly rated, as it is crucial to IGU's ability to continue being a low-cost energy source for Interior Alaska.

15 The delivered cost per MCF, investment required by IGU, exposure to variable commodity pricing and  
16 currency rates were evaluated as important factors in IGU's ability to provide natural gas at the lowest  
17 cost possible and to provide our customers with rates that are as stable as possible.

18 The last part of IGU's mission was brought into the matrix when IGU evaluated its ability to add new  
19 customers according to proforma. IGU expects to add more than 600 new customers per year for the  
20 foreseeable future.

## Attachment B: Gas Supply Analysis Matrix

#	Scoring Criteria	Score	Weighting (1-10)	No action	Canadian LNG	Cryopeak	Harvest
1	Schedule Risk	3 = Meets volume needs before 2032 2 = May not meet volume needs before 2032 1 = Does not meet volume needs before 2032	10	Value			
				1	2	1	3
				Weighted Score			
				10	20	10	30
2	Longevity Risk	3 = Provides a long term solution after 2032 2 = May not provide a long term solution after 2032 1 = Does not provide a long term solution after 2032	10	Value			
				1	2	1	3
				Weighted Score			
				10	20	10	30
3	Availability and reliability of gas supply	3= Contracted minimum volumes with ability to increase volumes as needed 2= Contracted minimum volumes with no ability to increase volumes 1= No contract, intermittent availability	10	Value			
				3	3	3	3
				Weighted Score			
				30	30	30	30
4	Reliability of LNG supply	3 = IGU has control over LNG production and manages the transportation contract 2 = IGU does not have control over LNG production, but manages transportation contract 1 = IGU has no control over LNG production or transportation	10	Value			
				3	1	3	2
				Weighted Score			
				30	10	30	20
5	Delivered cost per Mcf without debt service	3 = < \$16 2 = \$16 to \$20 1 = > \$20	8	Value			
				3	1	1	2
				Weighted Score			
				24	8	8	16
6	Investment by IGU	3 = No IGU investment required 2 = Some IGU investment required 1= Significant level of IGU investment required	6	Value			
				1	3	1	2
				Weighted Score			
				6	18	6	12
7	Rate impact	3 = IGU would keep current pricing or lower it 2 = Rate increase between 5% and 20% required 1= Rate impact exceeds 20% or is unknown	10	Value			
				2	1	1	2
				Weighted Score			
				20	10	10	20
8	Commodity price risk	3 = Set, stable contractual pricing 2 = Set contractual pricing with small escalation 1 = Variable commodity pricing	5	Value			
				2	1	2	2
				Weighted Score			
				10	5	10	10
9	Currency exchange rate risk	2 = Not dependent on currency exchange rates 1 = Dependent on currency exchange rates	4	Value			
				2	1	2	2
				Weighted Score			
				8	4	8	8
10	Customer increase	3 = The project provides sufficient supply for IGU to be able to meet its proforma growth 2 = The project provides sufficient supply for current customers, but does not allow for full proforma growth 1= Choosing this project would mean IGU has to stop accepting new customers immediately	4	Value			
				1	3	2	3
				Weighted Score			
				4	12	8	12
			Total	152	137	130	188

## NewGen IGU Financial Forecast and Pro Forma Review

Model Review | January 17, 2023

## Financial Forecast and Pro Forma Review

Prepared for:





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## PRINCIPAL CONSIDERATIONS AND ASSUMPTIONS

The purpose of this summary report (Report) is to document NewGen's review of IGU's Financial Forecast and Proforma Model for natural gas purchases, LNG production, transport, and storage facilities, and natural gas distribution utility operation. The review effort includes an examination of underlying assumptions, model functionality, content, and reporting.

## Principal Considerations and Assumptions

In the preparation of this Report and the conclusions that follow, we have made certain assumptions with respect to conditions that may occur in the future. While we believe these assumptions are reasonable for the purpose of this Study, they are dependent upon future events and actual conditions may differ from those assumed herein. In addition, we have used and relied upon certain information and assumptions provided to us by others, but have not independently verified the information and offer no assurances with respect thereto. We believe the use of such information and assumptions is reasonable for the purposes of this Study. However, some assumptions will invariably not materialize as stated herein or may vary significantly due to unanticipated events and circumstances. Therefore, the actual results can be expected to vary from those forecasted to the extent that actual future conditions differ from those assumed by us or from information or assumptions provided to us by others.

The principal considerations and assumptions made by us and the principal information and assumptions provided to us by others include the following:

### General

1. A 10-year study period, from 2023 to 2032, was selected for the purposes of the financial forecast and related analysis.
2. The general rate of inflation will be 2.3% per year based on the consensus projections prepared by Blue Chip Economic Indicators, March 10, 2018. Although the October 2022 consensus projection for the general rate of inflation is 2.1%, the modeled inflation will remain at 2.3% as a measure of conservatism. All dollar amounts are expressed as nominal values.
3. Rates will be set to cover all costs on a cash basis and to maintain a debt service coverage ratio of 1.0 or better for SETS financing and 1.20 or better for revenue bond financing and commercial financing. Additional debt service coverage requirements are discussed in the Financing Plan section below.
4. Under a cash basis approach, revenue requirements (or revenue from rates) include operations expenses and debt service (principal and interest). Remaining funds are available for future capital improvements or early repayment of debt.
5. Capital improvements will be completed within budgeted amounts including contingency allowances and will be completed on schedule.
6. As IGU is a tax-exempt entity, no property taxes or income taxes are included in projected operating costs, other than the Payment In Lieu of Taxes (PILT), payable to the Matanuska Susitna Borough annually.

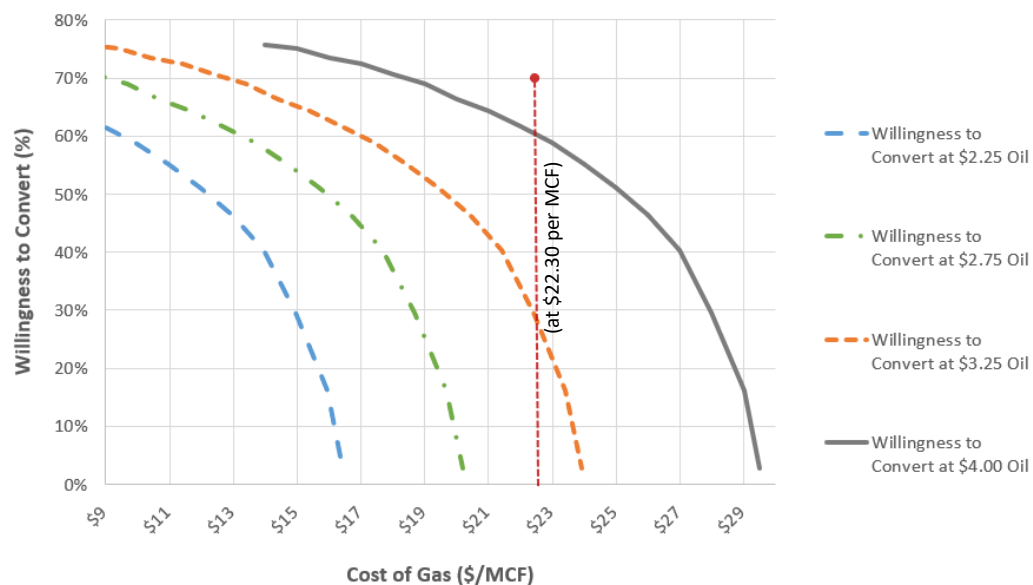
7. IGU's current and outstanding policies, procedures, contracts, and risk management plans will be implemented by IGU and its advisors in a timely manner consistent with the concepts and plans reported herein. This will provide for cost effective management and delivery of capital improvement projects and allow IGU to provide natural gas supply and utility services to customers in the Fairbanks and North Pole communities.
8. Three financial forecast scenarios are presented for discussion as follows:
  - a. **Scenario 7 (Harvest B with Titan)** – assumes a transition to North Slope gas supply with liquefaction services provided by Harvest Alaska, LLC (Harvest). Titan liquefaction facilities are maintained in standby status. The analysis includes updated trucking costs, updated trailer maintenance costs, and no expansion beyond 2030.
  - b. **Scenario 8 (Harvest B with Titan and Alt. Trucking)** – same as Scenario 7 above with alternative trucking company costs.
  - c. **Scenario 9 (Harvest B with Titan - Original)** – Originally Scenario 7 without updates to trucking costs and trailer maintenance costs.

## Customers, Conversions, and Demand

9. In developing projections of customers and associated natural gas demand for the IGU gas utility system, IGU relied upon customer conversion and usage studies as prepared for AIDEA by Cardno ENTRIX (Cardno).
  - a. IEP Conversion Rate Heating Oil Price Sensitivity Analysis – October 2015
  - b. IEP Single-Family Residential Willingness to Convert Price Sensitivity Analysis – October 2014
  - c. Fairbanks LNG Distribution System Demand Analysis – January 2014

10. Additional sensitivity analyses were prepared for consideration, using Cardno methodology, with oil prices at \$4.00/gal, \$3.25/gal, \$2.75/gal, and \$2.25/gal. As shown in Figure 1 below, Cardno's approach reflects customers' willingness to convert being directly related to the differential between cost of heating with oil and the cost of heating with natural gas.

**Figure 1 – Customer Willingness to Convert vs Cost of Gas**



11. At the time this Report was prepared, the 12-month average retail price for heating oil in the Fairbanks area was approximately \$4.50 per gallon; slightly above the \$4.00 oil curve in Figure 1 above. At IGU's current average of \$22.30/MCF, customers' willingness to convert would be about 70 percent as shown by the red vertical line.
12. Cardno studies estimate the conversion period, or the rate at which willing customers convert their heating systems from heating oil to natural gas, for the IGU utility system to be approximately 10-12 years.

13. Projected customers, as used in the IGU financial forecast, were estimated by applying the results of Cardno's IEP Conversion Rate Heating Oil Price Sensitivity Analysis – October, 2015. In that study, customer conversion rates, over a range of natural gas prices, were estimated using a future heating oil price of \$2.75 per gallon. Customer conversion and total number of customers served are summarized in Table 1 below.

**Table 1 – Summary of Projected Customers**

Item	2022 Forecast Scenarios
<b>Customer Conversions</b> (Residential/non-Residential)	35% / 70%
<b>Number of Customers Served</b> (after distribution buildout)	6,550
<b>Modeled Customers Served</b> (no expansion beyond 2030) <sup>[1]</sup>	6,084
[1] Note, in the updated analysis, no expansion is modeled beyond 2030 due to LNG production constraints. That is, a second LNG production train would be required to continue expansion beyond 2030.	

At a future heating oil price of \$2.75 per gallon and a delivered natural gas rate of \$18 per MCF, the Cardno analyses indicate that approximately 35% of potential residential customers, across all phases, will convert their heating to natural gas. Conversion rate for non-residential customers, including multi-family, commercial and industrial customers, is estimated to be 70%.

14. Projected customers for IGU are shown in Exhibit 1, Table EX-1.1.
15. Usage for existing IGU customers, by customer class, is based on FY 2022 operating results provided by IGU and is shown in Table 2 below:

**Table 2 – FY 2022 Annual Usage for IGU Customers by Customer Type**

Customer Class	FY 2022 Annual Usage (MCF)
Residential	92,000
Small Commercial	453,400
Medium Commercial	128,700
Large Commercial	232,800
Industrial	87,800
Total	994,700

16. Projected annual usage for 2023 and beyond assumes customers that had previously switched from natural gas to heating oil at low oil prices switch back to natural gas when lower priced natural gas is available.

17. Estimated usage for new IGU customers is based on assumptions and methodology from Cardno demand studies adjusted to reflect realized usage from new customers. Estimated annual usage, by customer type, is shown in Table 3 below:

**Table 3 – Estimated Annual Usage by Customer Type**

Customer Type	Estimated Annual Usage (MCF per Customer)
Residential	135
Small Commercial	595
Medium Commercial	4,000
Large Commercial	7,400
Industrial	28,000

18. Projected demand for IGU, based on existing and projected customers and estimated annual usage levels, is shown in Exhibit 2, Table EX-2.1.

## Natural Gas Supply

19. Modeled gas supply and pricing for the near term is based on IGU continuing to purchase its natural gas needs from Hilcorp under existing arrangements through October 2024. Beginning October 2024, future natural gas supply and pricing is based on a proposed North Slope gas supply agreements between Hilcorp and IGU and an LNG Manufacturing Service Agreement between Harvest Alaska, LLC (Harvest) currently under negotiation. Under these agreements, natural gas is to be delivered to a proposed LNG production facility constructed by Harvest. Projected prices for natural gas supply are summarized in Table 4 below.

**Table 4 – Projected Price for Natural Gas Supply 2023 – 2032 (\$/MCF)**

Item	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030	FY 2031	FY 2032
Natural Gas Supply	9.43	8.53	4.99	2.53	2.57	2.61	2.65	2.69	2.73	2.77

## Liquefaction

20. Existing Titan 1 liquefaction facilities at Point MacKenzie have a daily production capacity of 50,000 gallons per day or an annual production capacity of approximately 1.4 bcf equivalent natural gas.
21. Costs associated with the operation of Titan 1 liquefaction plant, including costs for energy, operation and maintenance, and insurance are based on historical operating costs. The facility is assumed to continue operation until the proposed North Slope Harvest LNG plant becomes operational and remain as a back-up supply source for the duration of this analysis.
22. Proposed Harvest liquefaction facilities at the North Slope will be constructed by Harvest and are expected to be operational on or before the 2024-25 winter heating season.

23. Cost associated with the operation of the Harvest liquefaction plant, including costs for operation and maintenance, and capital recovery are incorporated into a service fee structure contained in the proposed LNG Manufacturing Services Agreement between IGU and Harvest. Costs for fuel gas are incorporated into the Gas Agreement between IGU and Hilcorp.
24. Modeled liquefaction costs are based on continued Titan 1 operations through October 2024. Beginning October 2024, liquefaction costs are based on Base Service Fees and Excess Service Fees under the proposed Harvest LNG Manufacturing Service Agreement. Base Service Fees apply to volumes at or below a defined minimum level. Excess Service Fees apply to volumes above the defined minimum level. Projected liquefaction fees for Harvest LNG services are shown in Table 5 below.

**Table 5 – Projected Liquefaction Costs 2023 – 2032 (\$/MCF)**

Item	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030	FY 2031	FY 2032
Base Service Fee	---	---	8.75	8.80	8.85	8.89	8.94	9.04	9.14	9.25
Excess Service Fee	---	---	4.25	4.27	4.30	4.32	4.34	4.39	4.44	4.48

25. The proposed Harvest LNG services agreement avoids IGU having to make a large capital investment for the construction and operation LNG production facilities.

## Transportation

26. LNG produced at the Point MacKenzie liquefaction plant will be transported to Fairbanks by truck until the Harvest LNG facility becomes operational. After commercial operation has been achieved at the Harvest LNG facility, LNG will be trucked from the North Slope liquefaction plant to Fairbanks. The roundtrip from Point MacKenzie to Fairbanks is approximately 16 hours. The roundtrip from the North Slope to Fairbanks is approximately 36 hours.
27. The existing LNG trailer fleet will be augmented with new, larger capacity trailers at an estimated cost of \$450,000 per trailer. IGU's current CIP includes the purchase of 15 trailers for operation in 2025 when the North Slope liquefaction plant becomes operational. Additional trailers will be purchased as needed to meet customer demand for natural gas.
28. Trucking (over the road tractors and drivers) will be provided through a third-party contract service. Projected LNG transportation costs for the Point MacKenzie-to-Fairbanks trip are estimated to be approximately \$2.75 per MCF in FY 2023 including an allowance for inflation and a fuel surcharge.
29. In Scenario 7, projected LNG transportation costs for the North Slope-to-Fairbanks trip are estimated to be approximately \$7.83 per MCF in FY 2025 then escalating at inflation.
30. In Scenario 8, projected LNG transportation costs for the North Slope-to-Fairbanks trip are estimated to be approximately \$7.49 per MCF in FY 2025 then escalating at inflation.



## Capital Improvement Plan

31. Several large capital items in the IGU Capital Improvement Plan (CIP) have been completed including the acquisition of Pentex, LLC assets, the construction of LNG storage facilities at Fairbanks and North Pole, and buildout of selected areas of IGU service territory.
32. IGU's 2023-32 CIP reflects a total capital funding requirement of approximately \$97.8 million including the purchase of large-capacity LNG trailers, distribution buildout into selected areas of IGU service territory, services and meters for new customer connections, and certain program management and conversion costs. Updates to the CIP reflect a more targeted approach to distribution buildout, removal of construction costs for new LNG production facilities, and the addition of large-capacity LNG trailers. These work items are more fully described in the IGU Capital Improvement Plan, a copy of which is included in this Report.
33. Estimated costs for work items included in IGU's Capital Improvement Plan for the 2023-32 period are summarized in Table 6 below.

**Table 6 – 2023-32 Capital Improvement Plan**

Item	Amount (\$)	Totals (\$)
<b>Transportation</b>		<b>\$ 12,150,000</b>
Large Capacity LNG Trailers	\$ 12,150,000	
<b>Distribution</b>		<b>\$ 82,058,000</b>
Targeted Distribution Infrastructure	\$ 56,113,000	
New Services and Meters	\$ 24,945,000	
<b>Program Management and Conversion</b>		<b>\$ 4,584,000</b>
Program Management and Customer Conversion Program	\$ 4,584,000	
<b>Total<sup>1</sup></b>		<b>\$ 97,792,000</b>

<sup>1</sup> Totals may not match Capital Budget exactly due to rounding

Since many of the capital work items are demand driven, actual capital expenditures and the timing of those expenditures will depend on the level of customer conversions and associated demand for natural gas.

## Financing Plan

34. Project financing for IGU's Capital Improvement Plan will be secured through lines of credit, Bond Anticipation Notes or Bonds, and other commercially available financing sources.
35. Bond financing includes up to \$136 million in tax-exempt bonds issued under AIDEA's Conduit Revenue Bond Program. Bond financing is modeled at an interest rate of 5%, a 30-year repayment term, a 3-year deferment of principal and interest payments, and an accrual of capitalized interest during the deferment period.

36. IGU's Series 2020A bond covenants state that before IGU incurs new long-term debt, IGU must demonstrate either of the following tests:
- a. IGU has maintained, for the two most recent fiscal years, a debt service coverage ratio of at least 1.20 including existing debt and proposed new debt; or
  - b. IGU has maintained, for the two most recent fiscal years, a debt service coverage ratio of at least 1.20 including existing debt, and a projected debt service coverage ratio of at least 1.35 for the next two fiscal years including existing debt and proposed debt
37. LNG trailers are assumed to be commercially financed at an interest rate of 6% and a 7-year repayment term.
38. A state storage credit program will provide partial credit for the Fairbanks storage project (\$15 million reimbursement). Funds are expected during FY 2025.
39. Financing sources for projects included in IGU's Capital Improvement Plan are summarized in Table 7 below.

**Table 7 – 2023-32 Financing Plan**

Sources of Funds		Amount
<b>Bond Financing</b>		\$ 67,000,000
<b>Other Sources</b>		\$ 30,792,000
Commercial Financing (LNG trailers)	\$ 12,150,000	
State storage credit – Fairbanks	\$ 15,000,000	
Other Debt or Cash Reserves (as available)	\$ 3,642,000	
<b>Total Financing Requirements <sup>1</sup></b>		<b>\$ 97,792,000</b>

<sup>1</sup> Totals may not match Capital Budget exactly due to rounding

## Financial Pro Forma

The Financial Forecast includes a projection of revenues, expenses, debt service, debt service coverage, and cash balances. This Report includes the FY 2023-32 period that coordinates with the end of existing gas supply contracts. Results for Scenario 5 – Harvest and Scenario 7 – Harvest w/Titan in Standby are included in the 2023-32 Financial Proforma Section.

Below is a summary of items shown in the financial pro forma analysis including line number references to the pro forma worksheets.

40. **Gas Sales (Line 1)** – based on projected customers and associated demand as described in Item 8 through Item 17 above.
41. **Average Rate Revenue (Line 3)** – represents annual Sales/Charges for Service (Line 6) divided by Gas Sales (Line 1) and is expressed in \$ per MCF.

42. **Total Operating Revenues (Line 8)** – includes Sales/Charges for Service (Line 6), or estimated revenue from rates, beginning with IGU rates effective July 1, 2022 (source: IGU Approved FY 2023 Budget). Projected rates are adjusted as needed to generate sufficient Operating Revenue and maintain debt service coverage. Projected rates, by year, are shown in Exhibit 3, Table EX-3.1 and Table EX-3.2 for illustrative purposes. Actual rate adjustments may be different depending on changes to the Customer Charge and Volume Charge rate structure.
43. **Cost of Gas (Line 11)** – reflects estimated cost to deliver LNG from Titan facilities in Point MacKenzie or from Harvest facilities in the North Slope, to storage tanks in Fairbanks. Includes costs for purchased gas, liquefaction, and trucking.
44. **Distribution (Lines 15-19)** – distribution costs include Storage and Vaporizing, Distribution Operations, Customer Accounts, and Administrative and General. FY 2023 is based on IGU's budgeted amounts. Projected distribution costs are based on historical IGU costs including adjustments for expected inflation and a review of observed operating ratios for gas utilities reporting to the American Gas Association (AGA) or other cost data as available.
45. **Operating Margin (Line 21)** – Operating Margin represents cash generated from operations and is calculated by subtracting the Cost of Gas (Line 11) and Distribution (Line 19) from Total Operating Revenues (Line 8).
46. **Net Income (Line 29)** – Calculated by subtracting Non-Operating Expenses (Income) (Line 27) from Operating Margin (Line 21)
47. **Funds Available for Debt Service & Capital Improvements (Line 31)** – represents cash from operations available to fund debt service or to fund capital improvements; calculation is Net Income (Line 29) plus Depreciation & Amortization (Line 24) plus Interest Expense (Line 25)
48. **Debt Service Coverage (Lines 39-40)**
- a. Debt Service Coverage – SETS (Line 39): Debt Service coverage for the SETS loan is set to 1.0 per the IGU-AIDEA Financing Agreement
  - b. Debt Service Coverage – Bonds (Line 40): Debt service coverage for bonds is calculated by subtracting SETS – Annual Debt Service (Line 35) from Funds Available for Debt Service & Capital Improvements (Line 31) then dividing the remaining amount by Bonds – Annual Debt Service (Line 36). Projected rates are adjusted to maintain debt service coverage of 1.20 or better for bond debt.

## Exhibit 1 – Projected Customers

Table EX-1.1: Projected Customers FY 2023 – 2032 (Scenario 5: Harvest 20 years and Scenario 7: Harvest w/Titan in Standby)

Item	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030	FY 2031	FY 2032
<b>Customers</b>										
Residential	1,240	1,719	2,313	2,902	3,487	3,974	4,305	4,534	4,534	4,534
Small Commercial	936	961	986	1,014	1,090	1,141	1,190	1,215	1,215	1,215
Medium Commercial	16	34	44	74	114	158	201	241	241	241
Large Commercial	38	44	55	67	74	80	85	87	87	87
Industrial	2	2	2	3	4	5	6	7	7	7
<b>TOTAL CUSTOMERS</b>	2,232	2,760	3,400	4,060	4,769	5,358	5,787	6,084	6,084	6,084
<b>New Customers <sup>1</sup></b>	487	528	640	660	709	589	429	297	--	--
<b>Cumulative New Customers</b>	487	1,015	1,655	2,315	3,024	3,613	4,042	4,339	4,339	4,339

<sup>1</sup> New Customer counts are based on the difference between year-to-year budgeted amounts

## Exhibit 2 – Projected Demand

Table EX-2.1: Projected Demand FY 2023 – 2032 (Scenario 5: Harvest 20 years and Scenario 7: Harvest w/Titan in Standby)

Item	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030	FY 2031	FY 2032
<b>Demand (BCF)</b>										
Residential.	0.131	0.219	0.296	0.376	0.455	0.523	0.572	0.606	0.612	0.612
Small Commercial	0.608	0.625	0.640	0.657	0.699	0.731	0.760	0.777	0.778	0.778
Medium Commercial	0.054	0.095	0.124	0.273	0.427	0.602	0.777	0.940	0.956	0.956
Large Commercial	0.245	0.312	0.395	0.491	0.549	0.596	0.630	0.648	0.648	0.648
Industrial	0.060	0.079	0.079	0.120	0.133	0.152	0.168	0.187	0.187	0.187
<b>TOTAL DEMAND (BCF)</b>	1.098	1.331	1.535	1.918	2.263	2.604	2.907	3.158	3.181	3.181

### Exhibit 3 – Projected Rates <sup>[1]</sup>

Table EX-3.1: Projected Rates FY 2023 – 2032 (Scenario 7: Harvest B with Titan)

Item	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030	FY 2031	FY 2032
Modeled Rate Adjustment	5.0%	0.0%	13.2%	-4.4%	-2.4%	-0.8%	10.9%	-0.2%	1.2%	0.9%
<b>Residential</b>										
Customer Charge (\$/Month)	\$15.00	\$15.00	\$15.00	\$15.00	\$15.00	\$15.00	\$15.00	\$15.00	\$15.00	\$15.00
Volume Charge (\$/MCF)	\$21.85	\$21.85	\$25.39	\$23.95	\$23.28	\$23.06	\$25.84	\$25.29	\$25.32	\$25.46
<b>Small Commercial</b>										
Customer Charge (\$/Month)	\$28.00	\$28.00	\$28.00	\$28.00	\$28.00	\$28.00	\$28.00	\$28.00	\$28.00	\$28.00
Volume Charge (\$/MCF)	\$21.80	\$21.80	\$25.34	\$23.89	\$23.22	\$23.01	\$25.78	\$25.23	\$25.26	\$25.40
<b>Medium Commercial</b>										
Customer Charge (\$/Month)	\$90.00	\$90.00	\$90.00	\$90.00	\$90.00	\$90.00	\$90.00	\$90.00	\$90.00	\$90.00
Volume Charge (\$/MCF)	\$20.48	\$20.48	\$23.80	\$22.45	\$21.82	\$21.62	\$24.22	\$23.71	\$23.73	\$23.86
<b>Large Commercial</b>										
Customer Charge (\$/Month)	\$90.00	\$90.00	\$90.00	\$90.00	\$90.00	\$90.00	\$90.00	\$90.00	\$90.00	\$90.00
Volume Charge (\$/MCF)	\$21.74	\$21.74	\$25.27	\$23.83	\$23.16	\$22.95	\$25.71	\$25.16	\$25.19	\$25.33
<b>Industrial</b>										
Customer Charge (\$/Month)	\$625.00	\$625.00	\$625.00	\$625.00	\$625.00	\$625.00	\$625.00	\$625.00	\$625.00	\$625.00
Volume Charge (\$/MCF)	\$20.48	\$20.48	\$23.80	\$22.45	\$21.82	\$21.62	\$24.22	\$23.71	\$23.73	\$23.86

[1] Rates shown for illustrative purposes; actual rate adjustments will include consideration of realized number of customers and demand

## Exhibit 3 – Projected Rates <sup>[1]</sup>

**Table EX-3.2: Projected Rates FY 2023 – 2032 (Scenario 8: Harvest B with Titan and Alt. Trucking)**

Item	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030	FY 2031	FY 2032
Modeled Rate Adjustment	5.0%	0.0%	12.3%	-5.1%	-2.4%	-0.8%	11.0%	-0.4%	1.2%	0.9%
<b>Residential</b>										
Customer Charge (\$/Month)	\$15.00	\$15.00	\$15.00	\$15.00	\$15.00	\$15.00	\$15.00	\$15.00	\$15.00	\$15.00
Volume Charge (\$/MCF)	\$21.85	\$21.85	\$25.15	\$23.55	\$22.88	\$22.66	\$25.48	\$24.95	\$25.00	\$25.14
<b>Small Commercial</b>										
Customer Charge (\$/Month)	\$28.00	\$28.00	\$28.00	\$28.00	\$28.00	\$28.00	\$28.00	\$28.00	\$28.00	\$28.00
Volume Charge (\$/MCF)	\$21.80	\$21.80	\$25.09	\$23.50	\$22.83	\$22.61	\$25.42	\$24.89	\$24.95	\$25.09
<b>Medium Commercial</b>										
Customer Charge (\$/Month)	\$90.00	\$90.00	\$90.00	\$90.00	\$90.00	\$90.00	\$90.00	\$90.00	\$90.00	\$90.00
Volume Charge (\$/MCF)	\$20.48	\$20.48	\$23.57	\$22.07	\$21.45	\$21.24	\$23.89	\$23.38	\$23.44	\$23.57
<b>Large Commercial</b>										
Customer Charge (\$/Month)	\$90.00	\$90.00	\$90.00	\$90.00	\$90.00	\$90.00	\$90.00	\$90.00	\$90.00	\$90.00
Volume Charge (\$/MCF)	\$21.74	\$21.74	\$25.02	\$23.43	\$22.77	\$22.54	\$25.35	\$24.82	\$24.88	\$25.02
<b>Industrial</b>										
Customer Charge (\$/Month)	\$625.00	\$625.00	\$625.00	\$625.00	\$625.00	\$625.00	\$625.00	\$625.00	\$625.00	\$625.00
Volume Charge (\$/MCF)	\$20.48	\$20.48	\$23.57	\$22.07	\$21.45	\$21.24	\$23.89	\$23.38	\$23.44	\$23.57

[1] Rates shown for illustrative purposes; actual rate adjustments will include consideration of realized number of customers and demand



## FINANCIAL PRO FORMA 2023-32



Interior Gas Utility (IGU)  
IGU Financial Model:  
Income Statement and Funds Available for Debt Service & Capital Improvement  
7 - Harvest B with Titan

Line No.	ITEM	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032
1	Gas Sales (MCF)	1,098,238	1,330,659	1,535,098	1,917,633	2,262,682	2,603,893	2,906,943	3,157,667	3,181,207	3,181,207
2											
3	Average Rate Revenue per MCF (\$/MCF)	\$22.28	\$22.15	\$25.09	\$23.86	\$23.24	\$22.99	\$25.42	\$25.30	\$25.59	\$25.80
4	(rate adjustments shown in %)	0.0%	0.0%	13.2%	-4.4%	-2.4%	-0.8%	10.9%	-0.2%	1.2%	0.9%
5	Operating Revenues										
6	Sales/Charges for Service	\$ 24,471,667	\$ 29,468,894	\$ 38,514,834	\$ 45,753,101	\$ 52,579,766	\$ 59,866,578	\$ 73,902,121	\$ 79,899,994	\$ 81,396,254	\$ 82,088,122
7	Other Income	-	-	-	-	-	-	-	-	-	-
8	Total Operating Revenues	\$24,471,667	\$29,468,894	\$38,514,834	\$45,753,101	\$52,579,766	\$59,866,578	\$73,902,121	\$79,899,994	\$81,396,254	\$82,088,122
9											
10	Operating Expenses										
11	Cost of Gas (delivered to Fairbanks)	17,239,284	20,223,752	28,177,824	35,721,180	41,900,687	48,496,295	55,094,824	61,473,033	62,908,936	64,009,681
12	ST - Revenues less Cost of Gas [1]	\$ 7,232,383	\$ 9,245,142	\$ 10,337,011	\$ 10,031,921	\$ 10,679,079	\$ 11,370,283	\$ 18,807,297	\$ 18,426,961	\$ 18,487,317	\$ 18,078,441
13											
14	Distribution										
15	Storage & Vaporizing	1,302,787	1,399,491	1,502,533	1,675,099	1,836,395	2,000,220	2,155,098	2,295,821	2,351,048	2,398,068
16	Distribution Operations	775,357	806,336	942,000	1,124,590	1,448,530	1,694,467	1,778,363	1,837,352	1,893,807	1,946,329
17	Customer Accounts	430,361	438,968	447,748	456,703	465,837	475,153	484,656	494,350	504,237	514,321
18	Administrative & General	3,563,070	3,634,331	3,707,018	3,781,158	3,738,478	3,907,005	4,054,800	4,185,083	4,268,785	4,354,160
19	ST - Distribution	\$ 6,071,575	\$ 6,279,127	\$ 6,599,299	\$ 7,037,550	\$ 7,489,239	\$ 8,076,846	\$ 8,472,917	\$ 8,812,606	\$ 9,017,876	\$ 9,212,879
20											
21	Operating Margin	[2] \$ 1,160,808	\$ 2,966,015	\$ 3,737,712	\$ 2,994,371	\$ 3,189,839	\$ 3,293,437	\$ 10,334,380	\$ 9,614,355	\$ 9,469,442	\$ 8,865,562
22											
23	Non Operating (Revenues) Expenses										
24	Depreciation and Amortization	5,504,766	5,630,766	6,435,858	6,840,153	7,634,066	8,179,839	8,464,442	8,551,585	8,665,871	8,734,442
25	Interest Expenses	157,594	1,334,596	1,710,988	1,039,299	1,017,655	958,174	4,739,341	4,594,064	4,463,075	4,791,454
26	Interest/Investment Earnings/Other Income	(4,147)	(4,699)	(6,283)	(26,489)	(30,731)	(15,300)	(12,679)	(14,637)	(14,314)	(14,529)
27	ST - Non-Operating Items	\$ 5,658,213	\$ 6,960,663	\$ 8,140,563	\$ 7,852,962	\$ 8,620,990	\$ 9,122,713	\$ 13,191,105	\$ 13,131,012	\$ 13,114,632	\$ 13,511,368
28											
29	Net Income	[3] (\$4,497,404)	(\$3,994,648)	(\$4,402,851)	(\$4,858,590)	(\$5,431,151)	(\$5,829,276)	(\$2,856,725)	(\$3,516,657)	(\$3,645,191)	(\$4,645,806)
30											
31	Funds Available for Debt Service & Capital Improvements	[4] \$1,164,956	\$2,970,714	\$3,743,995	\$3,020,861	\$3,220,570	\$3,308,737	\$10,347,059	\$9,628,992	\$9,483,756	\$8,880,091
32											
33											
34	Debt Service										
35	SETS	-	-	-	-	-	-	-	-	-	-
36	Bonds	-	811,338	810,588	809,338	812,588	810,088	5,678,738	5,679,988	5,675,488	6,313,095
37	Commercial Debt	597,172	1,140,592	2,205,118	1,605,118	1,766,339	1,846,950	2,250,004	2,330,614	2,238,851	1,110,300
38	Total Debt Service	\$ 597,172	\$ 1,951,930	\$ 3,015,706	\$ 2,414,456	\$ 2,578,927	\$ 2,657,038	\$ 7,928,742	\$ 8,010,603	\$ 7,914,339	\$ 7,423,395
39											
40	Debt Service Coverage - SETS	[5] -	-	-	-	-	-	-	-	-	-
41	Debt Service Coverage - Bonds	[6] -	1.97	1.35	1.35	1.35	1.35	1.35	1.20	1.20	1.20
42	Debt Service Coverage - Commercial	[7] 1.95	1.20	1.20	1.20	1.20	1.20	1.20	1.20	1.20	1.20
43	Total Debt Service Coverage - Combined	[8] 1.95	1.52	1.24	1.25	1.25	1.25	1.31	1.20	1.20	1.20
44											
45	Estimated Cash Reserve Balance	[9] \$ 4,865,053	\$ 10,680,137	\$ 11,204,727	\$ 54,481,063	\$ 27,048,440	\$ 7,704,939	\$ 15,447,153	\$ 15,394,115	\$ 16,113,531	\$ 16,745,227

Footnotes:

- [1] Line 12 = Line 8 minus Line 11  
[2] Line 21 = Line 12 minus Line 19  
[3] Line 29 = Line 21 minus Line 27  
[4] Line 31 = Line 29 plus Line 24 plus Line 25  
[5] Line 40 = SETS debt service set at 1.0

- [6] Line 41 = Funds remaining after SETS and Commercial debt service divided by Line 36  
[7] Line 42 = Commercial debt service set at 1.2  
[8] Line 43 = Line 31 divided by Line 38  
[9] Line 45 = Previous year balance on Line 45 plus Line 31 minus Line 38

Interior Gas Utility (IGU)  
IGU Financial Model:  
Income Statement and Funds Available for Debt Service & Capital Improvement  
8 - Harvest B with Titan Alt.-Trucking

Line No.	ITEM	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032
1	Gas Sales (MCF)	1,098,238	1,330,659	1,535,098	1,917,633	2,262,682	2,603,893	2,906,943	3,157,667	3,181,207	3,181,207
2											
3	Average Rate Revenue per MCF (\$/MCF)	\$22.28	\$22.15	\$24.89	\$23.50	\$22.88	\$22.63	\$25.06	\$24.91	\$25.19	\$25.40
4	(rate adjustments shown in %)	0.0%	0.0%	12.3%	-5.1%	-2.4%	-0.8%	11.0%	-0.4%	1.2%	0.9%
5	Operating Revenues										
6	Sales/Charges for Service	\$ 24,471,667	\$ 29,468,894	\$ 38,201,816	\$ 45,072,701	\$ 51,776,622	\$ 58,922,419	\$ 72,835,032	\$ 78,659,471	\$ 80,132,500	\$ 80,813,626
7	Other Income	-	-	-	-	-	-	-	-	-	-
8	Total Operating Revenues	\$24,471,667	\$29,468,894	\$38,201,816	\$45,072,701	\$51,776,622	\$58,922,419	\$72,835,032	\$78,659,471	\$80,132,500	\$80,813,626
9											
10	Operating Expenses										
11	Cost of Gas (delivered to Fairbanks)	17,239,284	20,223,752	27,868,423	35,050,008	41,108,748	47,558,894	54,019,255	60,273,119	61,668,265	62,737,198
12	ST - Revenues less Cost of Gas [1]	\$ 7,232,383	\$ 9,245,142	\$ 10,333,393	\$ 10,022,693	\$ 10,667,873	\$ 11,363,525	\$ 18,815,777	\$ 18,386,352	\$ 18,464,235	\$ 18,076,428
13											
14	Distribution										
15	Storage & Vaporizing	1,302,787	1,399,491	1,501,709	1,671,581	1,830,390	1,991,639	2,144,103	2,282,701	2,337,481	2,384,231
16	Distribution Operations	775,357	806,336	942,000	1,124,590	1,448,530	1,694,467	1,778,363	1,837,352	1,893,807	1,946,329
17	Customer Accounts	430,361	438,968	447,748	456,703	465,837	475,153	484,656	494,350	504,237	514,321
18	Administrative & General	3,563,070	3,634,331	3,707,018	3,781,158	3,738,478	3,907,005	4,054,800	4,185,083	4,268,785	4,354,160
19	ST - Distribution	\$ 6,071,575	\$ 6,279,127	\$ 6,598,475	\$ 7,034,032	\$ 7,483,235	\$ 8,068,265	\$ 8,461,922	\$ 8,799,485	\$ 9,004,309	\$ 9,199,041
20											
21	Operating Margin	[2] \$ 1,160,808	\$ 2,966,015	\$ 3,734,919	\$ 2,988,661	\$ 3,184,638	\$ 3,295,260	\$ 10,353,855	\$ 9,586,866	\$ 9,459,925	\$ 8,877,387
22											
23	Non Operating (Revenues) Expenses										
24	Depreciation and Amortization	5,504,766	5,630,766	6,435,858	6,840,153	7,634,066	8,179,839	8,464,442	8,551,585	8,665,871	8,734,442
25	Interest Expenses	157,594	1,334,596	1,710,988	1,039,299	1,017,655	958,174	4,739,341	4,594,064	4,463,075	4,791,454
26	Interest/Investment Earnings/Other Income	(4,147)	(4,699)	(6,283)	(26,487)	(30,725)	(15,294)	(12,677)	(14,634)	(14,302)	(14,517)
27	ST - Non-Operating Items	\$ 5,658,213	\$ 6,960,663	\$ 8,140,564	\$ 7,852,965	\$ 8,620,996	\$ 9,122,719	\$ 13,191,106	\$ 13,131,015	\$ 13,114,645	\$ 13,511,379
28											
29	Net Income	[3] (\$4,497,404)	(\$3,994,648)	(\$4,405,645)	(\$4,864,303)	(\$5,436,358)	(\$5,827,459)	(\$2,837,251)	(\$3,544,149)	(\$3,654,719)	(\$4,633,992)
30											
31	Funds Available for Debt Service & Capital Improvements	[4] \$1,164,956	\$2,970,714	\$3,741,201	\$3,015,148	\$3,215,363	\$3,310,554	\$10,366,533	\$9,601,501	\$9,474,227	\$8,891,904
32											
33											
34	Debt Service										
35	SETS	-	-	-	-	-	-	-	-	-	-
36	Bonds	-	811,338	810,588	809,338	812,588	810,088	5,678,738	5,679,988	5,675,488	6,313,095
37	Commercial Debt	597,172	1,140,592	2,205,118	1,605,118	1,766,339	1,846,950	2,250,004	2,330,614	2,238,851	1,110,300
38	Total Debt Service	\$ 597,172	\$ 1,951,930	\$ 3,015,706	\$ 2,414,456	\$ 2,578,927	\$ 2,657,038	\$ 7,928,742	\$ 8,010,603	\$ 7,914,339	\$ 7,423,395
39											
40	Debt Service Coverage - SETS	[5] -	-	-	-	-	-	-	-	-	-
41	Debt Service Coverage - Bonds	[6] -	1.97	1.35	1.35	1.35	1.35	1.35	1.20	1.20	1.20
42	Debt Service Coverage - Commercial	[7] 1.95	1.20	1.20	1.20	1.20	1.20	1.20	1.20	1.20	1.20
43	Total Debt Service Coverage - Combined	[8] 1.95	1.52	1.24	1.25	1.25	1.25	1.31	1.20	1.20	1.20
44											
45	Estimated Cash Reserve Balance	[9] \$ 4,865,053	\$ 10,680,137	\$ 11,201,932	\$ 54,472,555	\$ 27,034,725	\$ 7,693,041	\$ 15,454,729	\$ 15,374,199	\$ 16,084,087	\$ 16,727,596

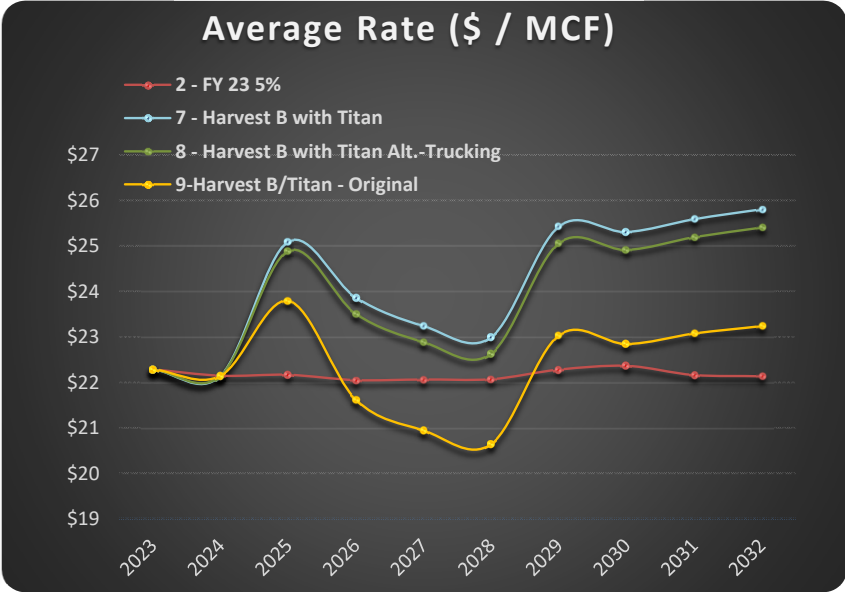
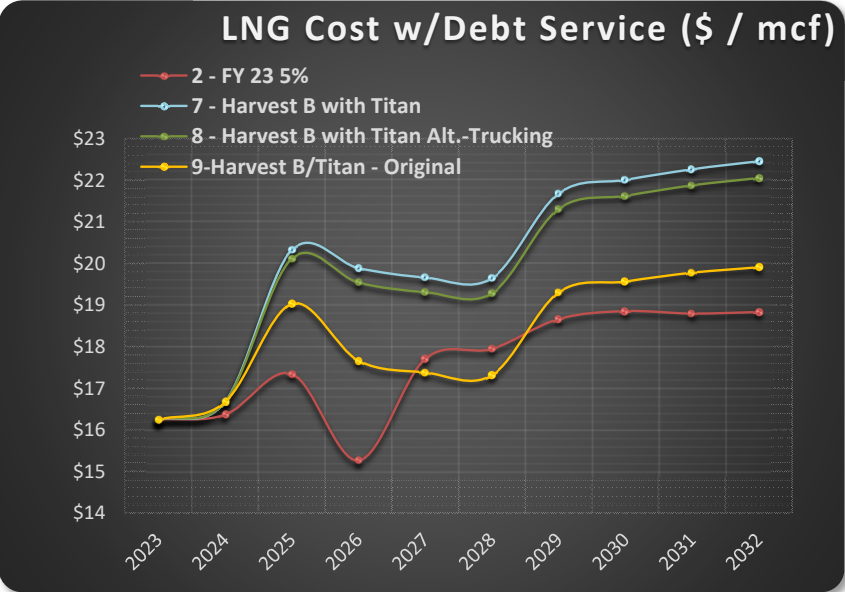
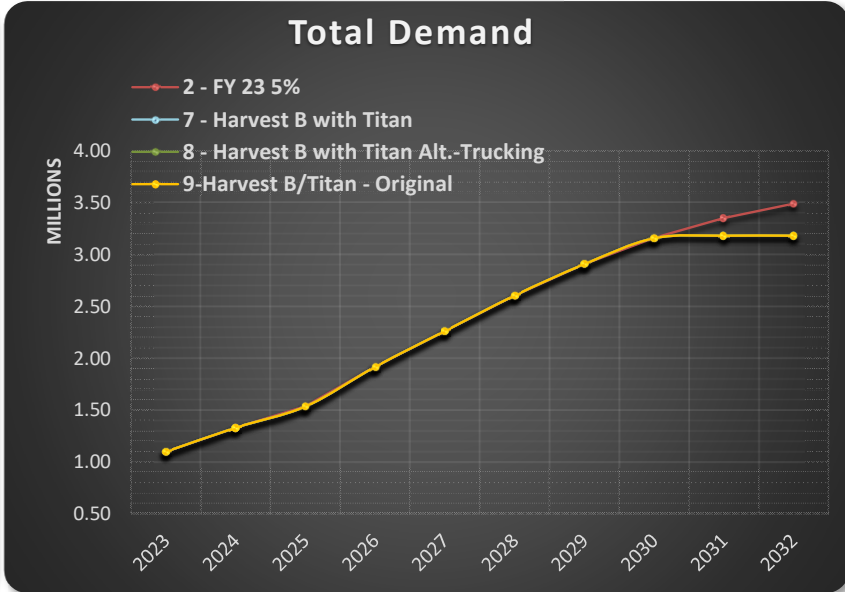
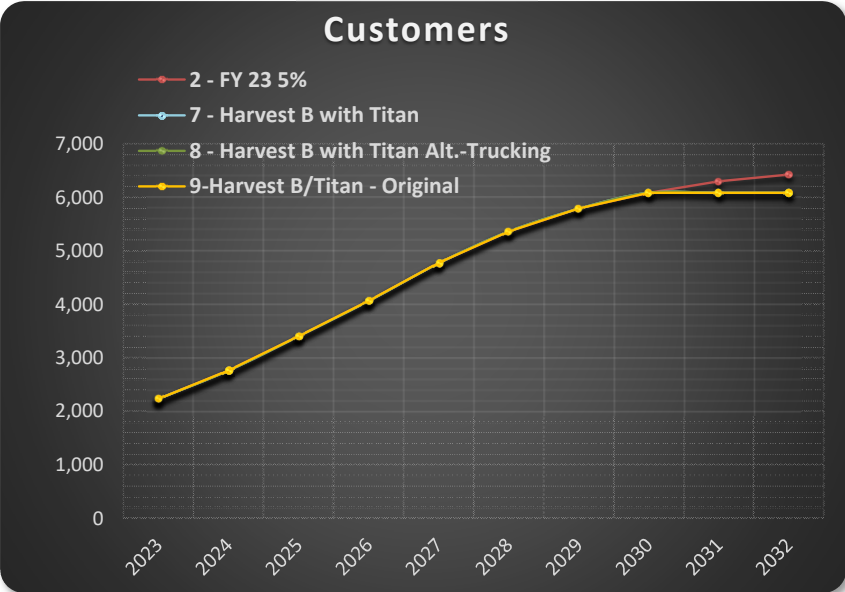
Footnotes:

- [1] Line 12 = Line 8 minus Line 11  
[2] Line 21 = Line 12 minus Line 19  
[3] Line 29 = Line 21 minus Line 27  
[4] Line 31 = Line 29 plus Line 24 plus Line 25  
[5] Line 40 = SETS debt service set at 1.0

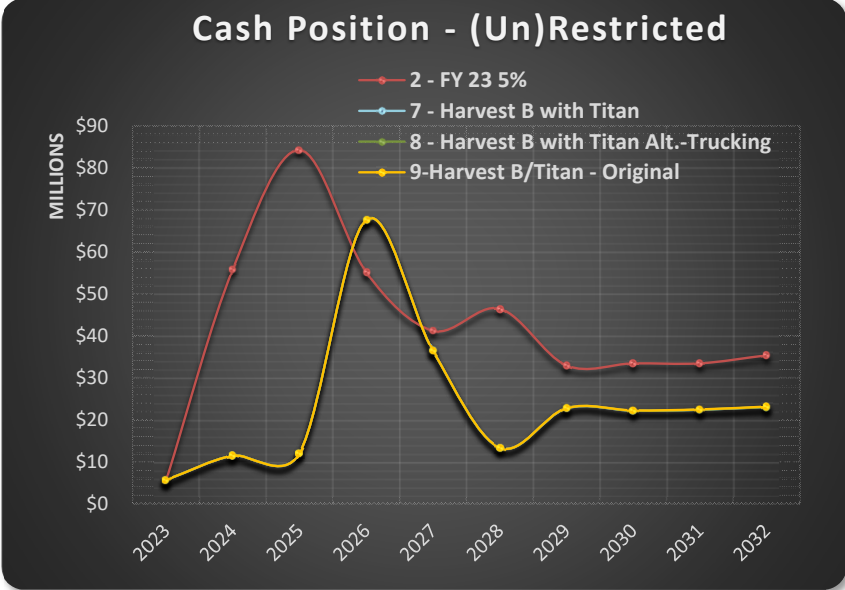
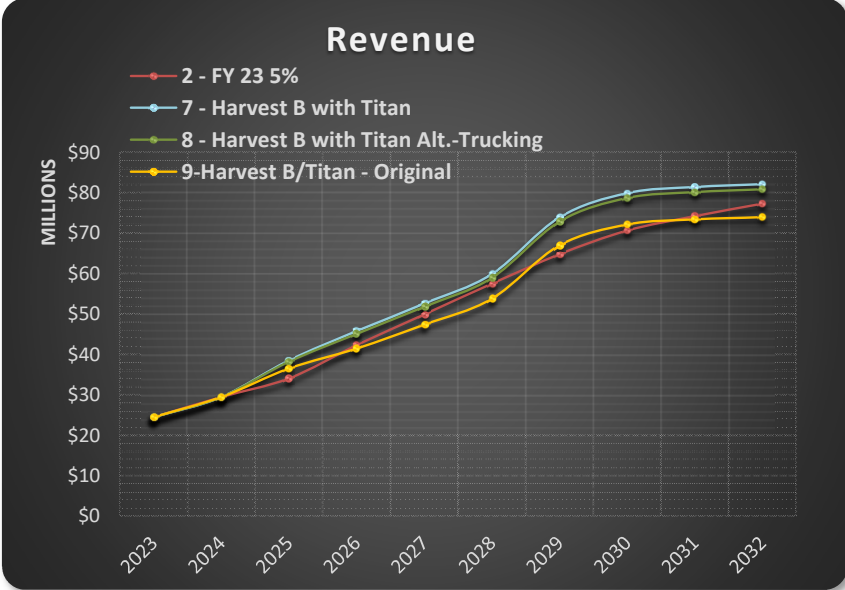
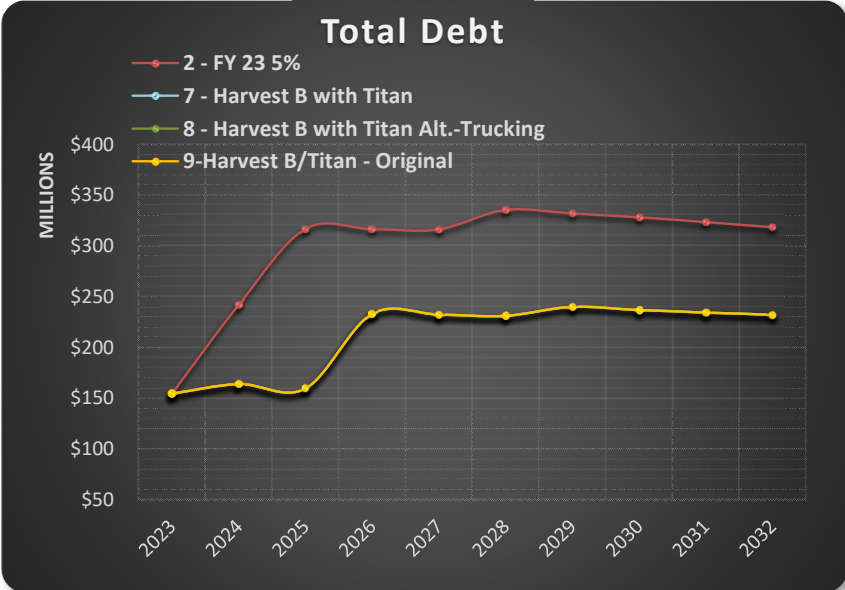
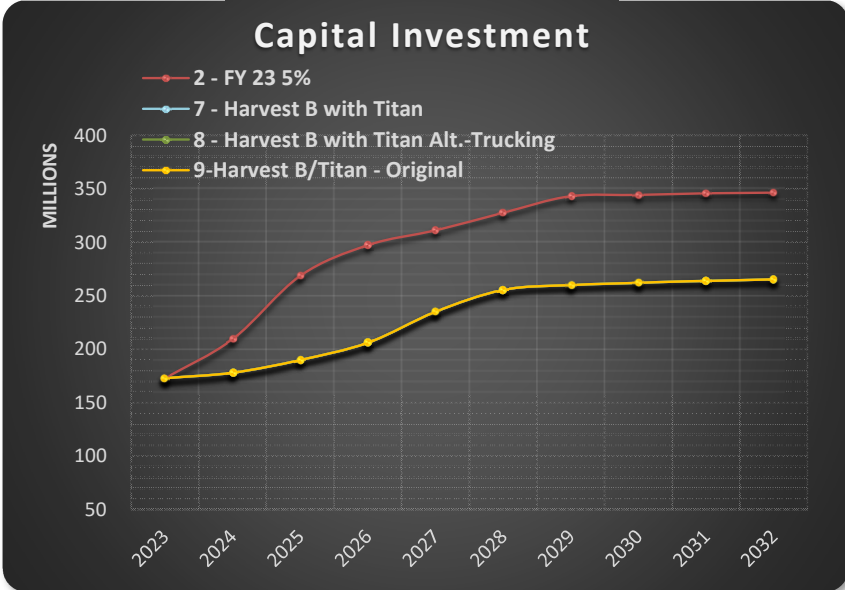
- [6] Line 41 = Funds remaining after SETS and Commercial debt service divided by Line 36  
[7] Line 42 = Commercial debt service set at 1.2  
[8] Line 43 = Line 31 divided by Line 38  
[9] Line 45 = Previous year balance on Line 45 plus Line 31 minus Line 38

Results Dashboard

Customers, Total Demand, LNG Cost with Debt Service and Average Rate



**Results Dashboard**  
**Capital Investment, Total Debt, Revenue and Cash Position**



# IGU CAPITAL IMPROVEMENT PLAN

## I. FY 2023-32 CAPITAL PROGRAM AND FUNDING PLAN

**INTERIOR GAS UTILITY  
CAPITAL IMPROVEMENT PLAN**

Item	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030	FY 2031	FY 2032	Totals
<b>Projected Demand (BCF)</b>	<b>1.10</b>	<b>1.33</b>	<b>1.54</b>	<b>1.92</b>	<b>2.26</b>	<b>2.60</b>	<b>2.91</b>	<b>3.16</b>	<b>3.35</b>	<b>3.49</b>	
<b>Transportation</b>											
LNG High-capacity Trailers & Equipment	\$ -	\$ -	\$ 6,750,000	\$ -	\$ 900,000	\$ 450,000	\$ 2,250,000	\$ 450,000	\$ 900,000	\$ 450,000	\$ 12,150,000
<b>Distribution</b>											
IGU Distribution Buildout	1,000,000	1,500,000	1,500,000	11,736,850	23,746,947	16,628,801	-	-	-	-	56,112,598
New Services and Meters *	[1] 2,580,000	3,174,600	3,174,600	3,492,060	3,751,319	3,116,399	2,269,839	1,571,427	1,116,401	698,412	24,945,057
ST - Distribution	\$ 3,580,000	\$ 4,674,600	\$ 4,674,600	\$ 15,228,910	\$ 27,498,266	\$ 19,745,200	\$ 2,269,839	\$ 1,571,427	\$ 1,116,401	\$ 698,412	\$ 81,057,655
<b>Program Management</b>											
Program Management and Customer Conversion Program	\$ -	\$ 529,100	\$ 529,100	\$ 825,000	\$ 576,000	\$ 250,000	\$ 100,000	\$ 100,000	\$ 850,000	\$ 825,000	\$ 4,584,200
<b>Total Capital Program</b>	<b>\$ 3,580,000</b>	<b>\$ 5,203,700</b>	<b>\$ 11,953,700</b>	<b>\$ 16,053,910</b>	<b>\$ 28,974,266</b>	<b>\$ 20,445,200</b>	<b>\$ 4,619,839</b>	<b>\$ 2,121,427</b>	<b>\$ 2,866,401</b>	<b>\$ 1,973,412</b>	<b>\$ 97,791,855</b>
<b>Sources of Funds</b>											
Storage Credits	\$ -	\$ -	\$ 15,000,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 15,000,000
Revenue Bonds	-	-	-	60,000,000	-	-	7,000,000	-	-	-	67,000,000
Commercial Loan / Line of Credit	-	10,000,000	(10,000,000)	-	-	-	-	-	-	-	-
Commercial Loans - LNG Trailers	-	-	6,750,000	-	900,000	450,000	2,250,000	450,000	900,000	450,000	12,150,000
Cash Reserves	[2] 3,580,000	-	-	-	-	-	-	-	-	61,855	3,641,855
<b>Total Sources of Funds</b>	<b>\$ 3,580,000</b>	<b>\$ 10,000,000</b>	<b>\$ 11,750,000</b>	<b>\$ 60,000,000</b>	<b>\$ 900,000</b>	<b>\$ 450,000</b>	<b>\$ 9,250,000</b>	<b>\$ 450,000</b>	<b>\$ 900,000</b>	<b>\$ 511,855</b>	<b>\$ 97,791,855</b>
<b>Project Fund Balance</b>	<b>\$ -</b>	<b>\$ 4,796,300</b>	<b>\$ 4,592,600</b>	<b>\$ 48,538,690</b>	<b>\$ 20,464,424</b>	<b>\$ 469,224</b>	<b>\$ 5,099,385</b>	<b>\$ 3,427,958</b>	<b>\$ 1,461,557</b>	<b>\$ -</b>	

Notes:

[1] Actual timing of distribution buildout depends on customer conversions and associated gas demand

[2] Cash Reserves includes Project Funds from prior bond financings

**INTERIOR GAS UTILITY  
SOURCES & USES OF FUNDS**

Item	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030	FY 2031	FY 2032	Totals
<b>SOURCES OF FUNDS</b>											
Storage Credits [1]	\$ -	\$ -	\$ 15,000,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 15,000,000
Revenue Bonds	-	-	-	60,000,000	-	-	7,000,000	-	-	-	67,000,000
Commercial Loan / Line of Credit	-	10,000,000	(10,000,000)	-	-	-	-	-	-	-	-
Commercial Loans - LNG Trailers	-	-	6,750,000	-	900,000	450,000	2,250,000	450,000	900,000	450,000	12,150,000
Cash Reserves [2]	3,580,000	-	-	-	-	-	-	-	-	61,855	3,641,855
<b>Total - Sources of Funds</b>	<b>\$ 3,580,000</b>	<b>\$ 10,000,000</b>	<b>\$ 11,750,000</b>	<b>\$ 60,000,000</b>	<b>\$ 900,000</b>	<b>\$ 450,000</b>	<b>\$ 9,250,000</b>	<b>\$ 450,000</b>	<b>\$ 900,000</b>	<b>\$ 511,855</b>	<b>\$ 97,791,855</b>
<b>USES OF FUNDS</b>											
LNG High-capacity Trailers & Equipment	\$ -	\$ -	\$ 6,750,000	\$ -	\$ 900,000	\$ 450,000	\$ 2,250,000	\$ 450,000	\$ 900,000	\$ 450,000	\$ 12,150,000
IGU Distribution Buildout	1,000,000	1,500,000	1,500,000	11,736,850	23,746,947	16,628,801	-	-	-	-	56,112,598
New Services and Meters	2,580,000	3,174,600	3,174,600	3,492,060	3,751,319	3,116,399	2,269,839	1,571,427	1,116,401	698,412	24,945,057
Program Mgmt and Conversions	-	529,100	529,100	825,000	576,000	250,000	100,000	100,000	850,000	825,000	4,584,200
<b>Total - Uses of Funds</b>	<b>\$ 3,580,000</b>	<b>\$ 5,203,700</b>	<b>\$ 11,953,700</b>	<b>\$ 16,053,910</b>	<b>\$ 28,974,266</b>	<b>\$ 20,445,200</b>	<b>\$ 4,619,839</b>	<b>\$ 2,121,427</b>	<b>\$ 2,866,401</b>	<b>\$ 1,973,412</b>	<b>\$ 97,791,855</b>
<b>DEBT FUNDING - CUMULATIVE TOTALS</b>											
Revenue Bonds	\$ -	\$ -	\$ -	\$ 60,000,000	\$ -	\$ -	\$ 7,000,000	\$ -	\$ -	\$ -	\$ 67,000,000
Commercial Loan / Line of Credit	-	10,000,000	(10,000,000)	-	-	-	-	-	-	-	-
Commercial Loans - LNG Trailers	-	-	6,750,000	-	900,000	450,000	2,250,000	450,000	900,000	450,000	12,150,000
<b>Total Debt Funding</b>	<b>\$ -</b>	<b>\$ 10,000,000</b>	<b>\$ (3,250,000)</b>	<b>\$ 60,000,000</b>	<b>\$ 900,000</b>	<b>\$ 450,000</b>	<b>\$ 9,250,000</b>	<b>\$ 450,000</b>	<b>\$ 900,000</b>	<b>\$ 450,000</b>	<b>\$ 79,150,000</b>

Notes:

[1] Funds from Storage Credits are expected in FY 2025

[2] Cash Reserves includes Project Funds from prior bond financings

# IGU CAPITAL IMPROVEMENT PLAN

## II. WORK ITEM SUMMARY



**INTEGRATED GAS UTILITY  
CAPITAL IMPROVEMENT PLAN**

*Version: 1/17/2023*

Summary Items	Work Item	Total Estimated Cost FY 2023-32	Bond Financing	Commercial Loans	Other Financing [1]
Transportation (LNG trailers) [2]	1	\$ 12,150,000	----	\$ 12,150,000	----
Distribution Buildout	2	56,112,598	\$ 56,112,598	----	----
Services and Meters	3	24,945,057	\$ 10,887,402	----	14,057,655
Program Mgt and Conversions	4	4,584,200	----	----	4,584,200
Total		<b>\$ 97,791,855</b>	<b>\$ 67,000,000</b>	<b>\$ 12,150,000</b>	<b>\$ 18,641,855</b>

NOTES:

[1] Other Financing includes Storage Credits (expected in FY 2025), Cash Reserves and project funds from prior bond financings

**INTEGRATED GAS UTILITY  
CAPITAL IMPROVEMENT PLAN**

*Version: 1/17/2023*

<b>Work Item</b>	<b>Capital Plan Work Item</b>	<b>Estimated Cost</b>	<b>Notes</b>
1	Transportation: High-capacity LNG Trailers & Equipment	\$ 12,150,000	<ul style="list-style-type: none"> <li>• High-capacity LNG trailers estimated at \$450k each</li> <li>• Financed with shorter-term commercial financing</li> </ul>
2	Distribution: System Buildout into Phase 2 and Phase 3 areas	\$ 56,112,598	<ul style="list-style-type: none"> <li>• Estimated costs for distribution buildout in Phase 2 and Phase 3 areas. IGU plans targeted distribution buildout in FY 2023 and FY 2024 followed by more extensive buildout in FY 2025 through FY 2032.</li> </ul>
3	Distribution: New Services and Meters	\$ 24,945,057	<ul style="list-style-type: none"> <li>• Estimated costs for new services and meters are based on an allowance of approximately \$5,300 for each customer connection</li> <li>• Costs for installation of new services and metering is tied to projected customer growth</li> </ul>
4	Program Management and Customer Conversions	\$ 4,584,200	<ul style="list-style-type: none"> <li>• Based on revised estimates; includes project management and construction management</li> <li>• Projected costs may be modified in the future to reflect outsourcing versus internal resource options</li> </ul>
	<b>TOTAL – ALL WORK ITEMS</b>	<b>\$ 97,791,855</b>	

## RESOLUTION 2023-01

**Suggested Motion:** Move to approve Resolution 2023-01  
A RESOLUTION AUTHORIZING THE GENERAL MANAGER OF THE  
INTERIOR GAS UTILITY TO EXECUTE A GAS SALE AND PURCHASE  
AGREEMENT BETWEEN IGU AND HILCORP NORTH SLOPE, LLC  
AND AN LNG MANUFACTURING SERVICE AGREEMENT BETWEEN  
IGU AND HARVEST ALASKA LNG, LLC

**RESOLUTION 2023-01**

**A RESOLUTION AUTHORIZING THE GENERAL MANAGER OF THE  
INTERIOR GAS UTILITY TO EXECUTE A GAS SALE AND PURCHASE  
AGREEMENT BETWEEN IGU AND HILCORP NORTH SLOPE, LLC AND  
AN LNG MANUFACTURING SERVICE AGREEMENT BETWEEN IGU AND  
HARVEST ALASKA LNG, LLC**

**WHEREAS**, in October 2012, the community established the Interior Gas Utility (IGU), with the mission of ensuring provision of clean-burning natural gas to the most people in the FNSB, as soon as possible and at the lowest possible cost; and

**WHEREAS**, IGU continues to advance the availability of natural gas in the FNSB through its investments in storage and distribution expansion; and

**WHEREAS**, IGU needs additional liquefaction capacity as soon as 2024 in order to continue its projected growth and fulfil its mission, and

**WHEREAS**, Hilcorp Alaska, LLC indicated that utilities should not rely on contract renewals in Cook Inlet, IGU's current main source of natural gas, past current contractual commitments; and

**WHEREAS**, IGU management evaluated available gas supply and liquefaction expansion options, including permanent or temporary expansion of its Cook Inlet liquefaction facility (Titan), imported LNG, and North Slope options, as outlined in BM 2023-01; and

**WHEREAS**, making investments in the Cook Inlet liquefaction facility without having the certainty of feed gas supply past the current contractual commitment that can be extended as far as 2032 is not prudent, and imported LNG would have a considerable impact on rates; and

**WHEREAS**, IGU and Hilcorp North Slope, LLC have negotiated a Gas Sale and Purchase Agreement which outlines the terms under which Hilcorp North Slope, LLC will sell gas to IGU at the North Slope instead of the Cook Inlet starting in October 2024; and

**WHEREAS**, IGU and Harvest Alaska LNG, LLC (Harvest) have negotiated an LNG Manufacturing Service Agreement, which outlines the terms under which Harvest will build an LNG Plant on the North Slope, liquefy the Hilcorp North Slope, LLC gas, and sell LNG to IGU with a target commencement date of October 2024; and

**WHEREAS**, the negotiated provisions include 20-year terms with two (2) five (5) year extension options for each contract, allowing IGU to meet its current and future demands with security of supply and predictable pricing at minimal impact to rates.

**NOW, THEREFORE, BE IT RESOLVED** that the IGU Board of Directors authorizes the IGU General Manager to execute a Gas Sale and Purchase Agreement between IGU and Hilcorp North Slope, LLC

33 with the major terms and conditions as substantially included in the Gas Sale and Purchase Agreement,  
34 Attachment A; and

35 **NOW, BE IT FURTHER RESOLVED** that the General Manager is authorized to execute an LNG  
36 Manufacturing Service Agreement between IGU and Harvest with the major terms and conditions as  
37 substantially included in the LNG Manufacturing Service Agreement, Attachment B.

38 **ATTACHMENTS:**

39 **Attachment A**  
40 Gas Sale and Purchase Agreement between Hilcorp North Slope, LLC and Interior Alaska Natural Gas  
41 Utility

42 **Attachment B**  
43 LNG Manufacturing Service Agreement between Harvest Alaska LNG, LLC and Interior Alaska Natural  
44 Gas Utility

45 *Approved by the Board of Directors*

46 \_\_\_\_\_  
47 Gary Wilken - Chair, for the IGU Board of Directors \_\_\_\_\_ Date

48 \_\_\_\_\_  
49 Heather Thomas - Secretary to the IGU Board of Directors \_\_\_\_\_ Date

**ATTACHMENT A**

**GAS SALE AND PURCHASE AGREEMENT**

**BETWEEN**

**HILCORP NORTH SLOPE, LLC**

**AND**

**INTERIOR ALASKA NATURAL GAS UTILITY**

**IGU-02**

**Effective Date: January 1, 2023**

**Termination Date: June 30, 2045 (subject to Section 4.1)**

## **GAS SALE AND PURCHASE AGREEMENT**

### **EXHIBITS**

EXHIBIT A: Delivery Points

EXHIBIT B: Quality Specifications

EXHIBIT C: LNG/Gas Conversion

## **GAS SALE AND PURCHASE AGREEMENT**

This GAS SALE AND PURCHASE AGREEMENT (“Agreement”) is made by Hilcorp North Slope, LLC (“Seller”), a Delaware limited liability company, with offices located at 3800 Centerpoint Drive, Suite 1400, Anchorage, Alaska 99503, and Interior Alaska Natural Gas Utility (“Buyer”), a public corporation, with offices located at 2525 Phillips Field Road , Fairbanks, Alaska, 99709 collectively referred to as “Parties” and individually as “Party,” dated as of January 1, 2023 (the “Effective Date”).

### **RECITALS**

- A. Seller owns, controls, or has the right to dispose of Natural Gas produced from lands located in the North Slope Area of Alaska.
- B. Buyer is a publicly owned Gas utility which aggregates Natural Gas, manufactures LNG, transports the LNG, re-gasifies the LNG and sells the resultant Gas to its utility customers and Gas distribution systems and to government, industrial, commercial and residential customers which are not connected to a Gas distribution system.
- C. Buyer desires to purchase from Seller, and Seller desires to sell to Buyer, Gas to convert to liquefied natural gas for transport, pursuant to the terms herein for a period of twenty Contract Years.
- D. Seller and Buyer adopt the terms and conditions set forth herein to govern this transaction.

### **AGREEMENT**

#### **1. DEFINITIONS & INTERPRETATION.**

##### **1.1 Definitions.** The following definitions apply to this Agreement:

“ACH” has the meaning set forth in Section 8.2.

“Affiliate” means any legal entity which controls, is controlled by, or is under common control with, another legal entity and which has operations in Alaska. An entity is deemed to “control” another if it owns directly or indirectly at least twenty percent of either of the following: (1) The shares entitled to vote at a general election of directors of such other entity; or (2) The voting interest in such other entity if such entity does not have either shares or directors.

“Agreement” has the meaning set forth in the Preamble.

“Alaska Clock Time” or “ACT” means Alaska Daylight Savings Time when Daylight Savings Time is in effect and Alaska Standard Time when Daylight Saving Time is not in effect.



“Arbitration Act” has the meaning set forth in Section 13.1.

“BTU” means British Thermal Unit which is the amount of energy needed to heat one pound of water by one degree Fahrenheit.

“Business Day” means a Day on which Buyer’s offices at 2525 Phillips Field Road, Fairbanks, Alaska, 99709 are open for retail business.

“Buyer” has the meaning set forth in the Preamble.

“Buyer Excused Event” means (i) a Force Majeure Event, (ii) Buyer’s failure to accept any Gas delivered at the Delivery Point which constitutes Off-Spec Gas, and (iii) unless constituting a “Seller Excused Event”, Seller’s failure to deliver Buyer’s Requirements.

“Buyer’s Requirements” means the volume of Gas Seller shall deliver to Buyer and Buyer shall take from Seller Gas needed to operate the LNG Facility, up to the Maximum Daily Quantity.

“Claim” means a claim, suit, liability, loss, demand, damages or cause of action by a third party for physical damage to property, bodily injury or death (including recoverable legal counsel fees and costs of litigation of the party asserting the Claim) arising from the physical operations of a Party, whether based in contract, tort, strict liability or otherwise. “Claim” does not include a claim based upon, arising from or related to the failure or refusal of Seller to deliver Gas or the failure or refusal of Buyer to receive Gas under this Agreement, for which the sole recourse and remedy is set forth in Section 2.4.

“Continuous Rate” means a continuous rate of Gas delivery without significant deviation, which rate shall be calculated by dividing the volume per Day by 24 hours. For example, a rate of 3 MMcfpd will be delivered at a Continuous Rate of approximately 125 Mcf per hour without significant deviation.

“Commencement Date” has the meaning set forth in the LNG Service Agreement.

“Contract Year” means a period of twelve (12) consecutive months commencing on July 1 and ending on June 30 of the following calendar year; *provided that* (i) the initial Contract Year (referred to as “Contract Year 0”) will be a stub period commencing on the Commencement Date and ending on the immediately following June 30, and (ii) the first Contract Year (and for purposes of counting under this Agreement, this will be “Contract Year 1”) shall commence on the immediately following July 1 thereafter, with each Contract Year commencing on the anniversary thereof.

“Cook Inlet Agreement” means that certain Gas Sale and Purchase Agreement

dated January 1, 2021, by and between the Parties, as amended, supplemented or otherwise modified.

“Cover,” as referred to in Section 2.4, means Seller’s and/or Buyer’s (as applicable) commercially reasonable efforts to obtain Replacement Gas, at a price reasonable for such Replacement Gas, given Buyer’s consumption needs, the quantities involved, and the anticipated length of the nonperformance by Seller.

“Day” means a 24-hour calendar day beginning at 00:00 hours and ending at 24:00 hours ACT. “Day” includes the 23-hour calendar day when local time changes from Alaska Standard Time to Alaska Daylight Savings Time and the 25-hour calendar day when local time changes from Alaska Daylight Savings Time to Alaska Standard Time.

“Daylight Savings Time” means the advancement of timekeeping clocks forward one hour from Standard Time near the start of spring pursuant to the Uniform Time Act of 1966, Pub. L. 89-387, 80 Stat. 107, 15 U.S.C. §§ 260-64, as amended, as administered by the US Department of Transportation.

“Delivery Point” has the meaning set forth in Section 3.1.

“Dispute” means any dispute or controversy between the Parties arising out of this Agreement and any dispute or controversy regarding the existence, construction, validity, interpretation, enforceability, or breach of this Agreement.

“Effective Date” has the meaning set forth in the Preamble.

“Excess Taxes” means taxes (including interest and penalties thereon) in excess of those payable under tax law as of December 31, 2022, on the production or severance of the Gas or the sale of Gas at the Sales Price. “Excess Taxes” do not include taxes, interest or penalties thereon which are determined after audit to be due under tax law as of December 31, 2022, on the production or severance of the Gas or the sale of the Gas at the Sales Price.

“Firm” means that a Party may interrupt its performance without liability only to the extent that such performance is excused or permitted by the terms of this Agreement.

“Force Majeure Event” has the meaning set forth in Section 10.2.

“Force Majeure Extension Period” means the period during the Term from and after the date on which Seller has been excused of its obligations under Section 2.3 due to a Force Majeure Event(s) for an aggregate of two hundred seventy (270) Days.

“Gas” or “Natural Gas” means any mixture of hydrocarbons or of hydrocarbons

and noncombustible gases, in a gaseous state consisting primarily of methane and meeting the quality specifications of Section 6.1.

“Gas Sale and Purchase Commitment” means the quantity of Gas that will be sold and delivered and purchased and received under this Agreement in accordance with Sections 2.3 and 2.4.

“Governmental Authority” means any national, state, county or municipal government and/or government of any political subdivision, and departments, courts, commissions, boards, bureaus, ministries, agencies, or other instrumentalities of any of them

“Harvest” means Harvest Alaska LNG, LLC.

“Hilcorp North Slope, LLC” has the meaning set forth in the Preamble.

“Insolvency Event” occurs in relation to a Party if:

(a) the Party commences (or consents to the commencement of) a voluntary case or other proceeding to be adjudicated a voluntary bankrupt or seeking liquidation, reorganization or other relief with respect to itself or its debts under any bankruptcy, insolvency, reorganization or other similar law of any jurisdiction now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of it, or consents to the filing of a bankruptcy proceeding against it or to any such relief or to the appointment of or taking possession by any such official in an involuntary case or other proceeding commenced against it;

(b) an involuntary case or other proceeding is commenced against the Party seeking liquidation, reorganization or other relief with respect to it or its debts under any bankruptcy, insolvency, reorganization or other similar law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or any substantial part of its property, and such involuntary case or other proceeding shall remain undismissed and unstayed for a period of ten (10) days; or

(c) an order for relief shall be entered against that Party under the Applicable Laws respecting bankruptcy or insolvency

“Interior Alaska Natural Gas Utility” has the meaning set forth in the Preamble.

“Liquefied Natural Gas” and “LNG” mean Gas condensed into a liquid by cooling it to approximately -260 °F.

“LNG Delivery Point” has the meaning set forth in the LNG Service Agreement.

“LNG Facility” has the meaning set forth in the LNG Service Agreement.

“LNG Service Agreement” means that certain LNG Manufacturing Service Agreement dated [•], by and between Harvest and Buyer.

“Major Gas Sale Event” means the occurrence of an initial delivery of Gas to a pipeline or other facility that will export Gas produced from or attributable to the Alaska North Slope, off of the Alaska North Slope, with a nameplate capacity of at least 1.5 BCF of Gas per Day.

“Maximum Daily Quantity” means an amount of Gas equal to 25,000 MCF/ day

“Mcf,” “MMcf” and “Bcf” mean thousand Standard Cubic Feet, Million Standard Cubic Feet, and Billion Standard Cubic Feet, respectively.

“MMcfpd” or “MMcfd” means MMcf delivered at a Continuous Rate for 24 hours during a Day.

“Month” means a period beginning at 00:00 hours ACT on the first Day of a calendar month and ending at 24:00 hours ACT on the last Day of that calendar month.

“NGLs” means liquid hydrocarbons capable of being separated or extracted from Gas, including ethane, propane, butane and longer-chain hydrocarbons.

“NGL Delivery Point” means the point where the final outlet flange of the Lateral NGL Pipeline (as defined in the LNG Service Agreement) connects to the inlet flange of the pipeline (FS3/FS1RG) utilized by Seller to receive such NGLs.

“Operational Notice” means a written confirmation from one Party to the other Party concerning the volumes of Gas accepted and to be delivered or a notice of Force Majeure as provided in Section 10.3.

“RCA” means the Regulatory Commission of Alaska or its predecessor the Alaska Public Utilities Commission, as the context requires.

“Replacement Gas” means any volume of Gas or gas component of LNG, up to Buyer’s Requirements, that Seller and/or Buyer obtains in the event Seller fails to deliver Gas in accordance with Section 2.4(A)(1).

“Retainage” has the meaning set forth in the LNG Service Agreement.

“Sales Price” has the meaning set forth in Section 7.1.

“Seller” has the meaning set forth in the preamble.

“Seller Excused Event” means (i) a Force Majeure Event, (ii) Buyer’s failure to accept any Gas delivered at the Delivery Point which satisfies the quality and

pressure specifications under Section 6.1 of this Agreement, and (iii) Seller's failure to deliver Buyer's Requirements due to any action or inaction by Buyer.

"Standard Cubic Foot" means the amount of Gas that would occupy a volume of one cubic foot at a temperature of sixty degrees Fahrenheit (60° F.) and at a pressure of fourteen and sixty-five hundredths (14.65) pounds per square inch absolute.

"Standard Time" means the time of Day without the offset for Daylight Savings Time.

"Tariffs" means the tariffs of a utility or pipeline regulated by the RCA which tariffs have been approved by the RCA and are currently in effect.

"Term" has the meaning set forth in Section 4.1.

"Termination Date" means June 30, 2045.

"Termination Event" has the meaning set forth in Section 4.2.

"Variable Royalties" means royalties (including interest and penalties thereon) which are determined by the Alaska Department of Revenue, or any other applicable Governmental Authority to be payable on the sale of the Gas based on a price that is greater than the Sales Price.

"Year" means a calendar year.

**1.2 Principles of Construction.** In this Agreement, unless the context otherwise requires:

- (A) This Agreement is the entire agreement between the Parties respecting the subject matter thereof.
- (B) Headings and the rendering of text in bold and/or italics are for convenience only and do not affect the interpretation of this Agreement.
- (C) Words importing the singular include the plural and vice versa and the masculine, feminine and neuter genders include all genders.
- (D) The words "hereof", "herein", and "hereunder" and words of similar import shall refer to this Agreement as a whole and not to any particular provision of this Agreement.
- (E) A reference to a Section, paragraph, clause, Party, Exhibit or Schedule is a reference to that Section, paragraph, clause of, or that Party, Exhibit or Schedule to, this Agreement unless otherwise specified, and in the event of a conflict, the provisions of the main body of this Agreement shall prevail

over the provisions of any Exhibit or Schedule.

- (F) A reference to this Agreement shall mean this Agreement including any amendment or supplement to, or replacement, novation or modification of this Agreement, but disregarding any amendment, supplement, replacement, novation or modification made in breach of this Agreement.
- (G) A reference to a Person includes that Person's successors and permitted assigns.
- (H) The term "including" means "including without limitation" and any list of examples following such term shall in no way restrict or limit the generality of the work or provision in respect of which such examples are provided.
- (I) References to any statute, code or statutory provision are to be construed as a reference to the same as it may have been, or may from time to time be, amended, modified or reenacted, and include references to all bylaws, instruments, orders and regulations for the time being made thereunder or deriving validity therefrom.
- (J) Each Party acknowledges and agrees that it has participated in the drafting of this Agreement and has had the opportunity to consult with legal counsel and any other advisors of its choice to its satisfaction regarding the terms and provisions of this Agreement and the results thereof. As a result, the rule of construction that an agreement be construed against the drafter will not be asserted or applied to this Agreement.
- (K) All accounting terms not specifically defined herein shall be construed in accordance with GAAP.
- (L) In the event of a conflict, a mathematical formula describing a concept or defining a term shall prevail over words describing a concept or defining a term.
- (M) References to any amount of money shall mean a reference to the amount in US Dollars.
- (N) The expression "and/or" when used as a conjunction shall connote "any or all of".
- (O) Words, phrases or expressions which are not defined herein, and which have a generally accepted meaning in the industry which is the subject of this Agreement shall have that meaning in this Agreement.
- (P) A waiver by either Party of any breach of the covenants and conditions to be performed under this Agreement by the other Party shall not be construed

as a waiver of any succeeding breach of the same or any other covenant or condition.

- (Q) Except as otherwise expressly provided in this Agreement, no amendments to or modifications of this Agreement shall be valid unless they are in writing and signed by the Parties.

### **1.3 Exhibits.**

- (A) All of the Exhibits that are attached to the body of this Agreement are an integral part of this Agreement and are incorporated by reference into this Agreement, including:
  - (1) Exhibit A – Delivery Point
  - (2) Exhibit B – Quality Specifications
  - (3) Exhibit C – LNG/Gas Conversion
- (B) If a conflict exists between the body of this Agreement and the Exhibits, the body prevails to the extent of the conflict.

## **2. GAS SALES.**

**2.1 Gas Sales Commitment; Revision; Limitation on Gas Use or Resale.** Subject to all of the terms and conditions of this Agreement, Seller commits to deliver and sell to Buyer, and Buyer commits to receive and purchase from Seller, the Natural Gas volumes and rates set forth in this Article 2.

### **2.2 Reserved.**

**2.3 Gas Sale and Purchase Commitment.** Unless Seller and Buyer otherwise agree in a writing signed by both Parties, the Gas Sale and Purchase Commitment under this Agreement shall be as set forth below.

(A) Requirements: Seller shall deliver to Buyer and Buyer shall take from Seller, an amount of Gas necessary to satisfy all of Buyer's Requirements up to the Maximum Daily Quantity.

(B) [Reserved].

(C) Seller shall be responsible for, and agrees to indemnify, defend and hold Buyer harmless from, all "Deficiency Fees" under the LNG Service Agreement, to the extent and only to the extent (i) Seller fails to deliver at least ninety-five percent (95%) of Buyer's Requirements due to any reason other than a Seller Excused Event (a "Failure to Deliver"), (ii)

such Failure to Deliver occurs for one (1) or more Days in any thirty (30) Day period during the Term, and (iii) such “Deficiency Fees” were incurred by Buyer under the LNG Service Agreement solely as a result of such Failure to Deliver. Additionally, the Parties acknowledge and agree that any Deficiency Fees for which Seller is responsible hereunder shall be calculated based on the volumes and fees contemplated by the LNG Service Agreement as of the date of execution of the LNG Service Agreement.

## **2.4 Nature of Gas Sale and Purchase Commitment and Remedies**

### **(A) Commitments:**

- (1) Except as otherwise provided or excused in this Agreement, on each Day of the Term Seller will make available to Buyer Buyer’s Requirements on a Firm basis and Buyer will receive and take from Seller Buyer’s Requirements. With respect to each Day during the Term, if, for reasons other than a Seller Excused Event, Seller fails to deliver Buyer’s Requirements, Seller shall use commercially reasonable efforts to Cover such deficiency with Replacement Gas from the North Slope; provided, however, Seller shall not be obligated to pay a sale price for such Replacement Gas that is greater than an amount equal to two (2) times the then applicable Sales Price. To the extent Buyer’s Requirements cannot be fully replaced through Cover, Buyer shall use commercially reasonable efforts to Cover such deficiency with Replacement Gas and to the extent Buyer is able to obtain such Replacement Gas, Seller shall be responsible for, and shall pay Buyer, the positive difference, if any, (i) with respect to Replacement Gas sourced from the North Slope, between the average weighted purchase price paid by Buyer for such Replacement Gas, not to exceed an amount equal to three (3) times the then applicable Sales Price, multiplied by the volume of such Replacement Gas, and (ii) with respect to Replacement Gas sourced from outside the North Slope, the average weighted purchase price paid by Buyer for such Replacement Gas, not to exceed an amount equal to five (5) times the then applicable Sales Price, multiplied by the volume of such Replacement Gas. To the extent the Point Mackenzie LNG Facility (as defined in the Cook Inlet Agreement) is still operational, Seller shall use commercially reasonable efforts to provide Replacement Gas from the Cook Inlet at a price not to exceed an amount equal to five (5) times the then applicable Sales Price. For the avoidance of doubt, notwithstanding anything in this Agreement to the contrary, Buyer’s sole remedies for the failure to deliver Gas under this Agreement shall be under Section 2.3(C) and this Section 2.4(A)(1).
- (2) Buyer shall notify Seller of any Scheduled Maintenance under the LNG Service Agreement as soon as reasonably possible to allow



Seller to adjust its Gas production in anticipation of such Scheduled Maintenance.

(B) Buyer's Remedies:

- (1) If Seller for any reason, including a Seller Excused Event or quality issues, does not deliver all of the applicable Buyer's Requirements, or if Buyer because of Force Majeure Event cannot take from Seller all of Buyer's Requirements, Buyer may make whatever purchases are necessary to replace the shortage from any available source. Buyer will in good faith attempt to purchase only the amount of Gas necessary to replace the shortage. Should any provision of this Agreement constrain Buyer in such a way that Buyer cannot replace the shortage on reasonable terms and conditions, that provision (or provisions) shall be relaxed or waived but only to the extent necessary to permit Buyer to purchase the replacement volumes on reasonable terms and conditions.
- (2) Seller shall make commercially reasonable efforts to use delivery points and Gas available from its existing and operable wells, including storage wells, prior to disrupting any deliveries to Buyer.
- (3) With respect to each Day during the Term, in which (A) a Failure to Deliver occurs for one (1) or more Days in any thirty (30) Day period during the Term, and (B) as a result of such Failure to Deliver, a Train (as defined in the LNG Service Agreement) is shut down at the LNG Facility and Buyer makes any payments under Section 3.5.2(iii) of the LNG Service Agreement (not to exceed \$12,500.00 per shutdown), then in such case Seller shall promptly reimburse Buyer for such payments.
- (4) Buyer shall provide to Seller all information necessary to calculate amounts due from Seller to Buyer (including volume, price, and delivery Day, as applicable) as soon as practicable after acquiring Replacement Gas.

(C) [Reserved].

(D) Exclusion and Waiver of Other Remedies: Neither Party shall be entitled to an award of, and hereby waives the right to recover, incidental, consequential, punitive, exemplary, or other non-direct damages or any other damages from the other Party arising from or related to this Agreement, whether asserted by or awarded to such Party or any third party and whether based on contract, tort, strict liability or other claim or theory of liability. The remedies listed in this Section 2.4 are the sole and exclusive remedies for Buyer's failure or refusal to receive Buyer's

Requirements, or Seller's failure or refusal to deliver Buyer's Requirements, where such failures or refusals are not excused or permitted under this Agreement.

## **2.5 Delivery Rate and Scheduling.**

(A) Seller shall deliver, and Buyer shall receive Gas in the amount of Buyer's Requirements at a Continuous Rate as provided in Section 2.4(A).

(B) By 3:00 p.m. ACT, the Day before Buyer is to receive Gas from Seller, Buyer shall send Seller's Gas Control Group an estimate of its Gas needs for the next Day.

**2.7 Operational Notices.** All notices made pursuant to this Article 2 (other than Section 2.8) will be given as Operational Notices. The Parties will document the commencement and termination of all sales and purchases of Gas, the Continuous Rate, the Delivery Point and any modifications of the Continuous Rate within a reasonable time after the applicable Operational Notice. The transactional summaries will be tabulated by the Seller in a spreadsheet that will be provided to Buyer periodically or in response to a request. Delays in updating the spreadsheet shall not negate or otherwise affect a sale of Gas under this Agreement.

**2.8 Optional Volumes.** If at any time Buyer reasonably determines that Buyer's Requirements will, on an average Yearly basis, exceed the Maximum Daily Quantity, Buyer shall provide 12 months written notice to Seller of its desire to increase the Maximum Daily Quantity, which such notice shall set forth the annual quantity, delivery profile and delivery start date for the additional volumes, and the Parties will cooperate in good-faith to adjust the Maximum Daily Quantity.

**2.9 Retainage.** Pursuant to Section 8.4 of the LNG Service Agreement, Seller acknowledges and agrees that Harvest shall be entitled to Retainage (as defined in the LNG Service Agreement); provided that in the event Buyer is entitled to any Excess Retainage Credits (as defined in the LNG Service Agreement) under the LNG Service Agreement, then Buyer shall promptly, but on no event less than thirty (30) days after the date Buyer obtains such Excess Retainage Credits, pay to Seller an amount equal to such Excess Retainage Credits.

**2.10 NGLs.** Buyer shall deliver to Seller, at Buyer's cost and expense, all NGLs and carbon dioxide extracted from Gas delivered hereunder, at the NGL Delivery Point pursuant to the LNG Service Agreement, in each case to the extent delivered under the LNG Service Agreement. Title and risk of loss to such NGLs and carbon dioxide shall pass from Buyer to Seller at the NGL Delivery Point. Buyer represents and warrants that such NGLs and carbon dioxide shall be free from all liens and encumbrances.

## **3. DELIVERY POINTS; TITLE; LIABILITY AND RISK OF LOSS; PIPELINES**

**3.1 Delivery Points.** Unless otherwise agreed between the Parties, the authorized delivery point is set forth in Exhibit A ("Delivery Point").

**3.2 Title.** Title to all Gas delivered by Seller and received by Buyer will pass at the Delivery Point. All liability and risk associated with the Gas will follow title.

#### **4. TERM.**

**4.1 Term.** The term of this Agreement shall commence on the Effective Date, and unless sooner terminated under Section 4.2, end on the Termination Date (“Term”); provided, however, with respect to any Day during the Force Majeure Extension Period in which Seller is unable to comply with its obligations under Section 2.3 due to a Force Majeure Event, the Term shall automatically be extended by an additional Day. Buyer shall have the option to extend the term by up to two additional 5-year Terms under this agreement provided Buyer provides Notice to Seller 180 days in advance of the expiration of the current Term.

**4.2 Termination Event Defined.** If any of the following circumstances (each an “Termination Event”) occurs, the applicable Party shall have the right to terminate this Agreement by providing written notice to the other Party, in accordance with Section 4.3: (a) in respect of either Party, if an Insolvency Event with respect to the other Party has occurred; (b) in respect of Seller if an Early Termination Event (as defined in the LNG Service Agreement) occurs; (c) in respect of either Party if the other Party is in material default of its obligations under this Agreement; (d) in respect of either Party if the other Party is in default of its payment obligations under this Agreement; (e) in respect of Seller, if a Major Gas Sale Event occurs.

**4.3 Termination Notice; Cure Period.** Upon the occurrence of a Termination Event, the Party with the right under Section 4.2 to terminate this Agreement (“Terminating Party”) shall have the right, but not the obligation, to give written notice thereof to the other Party specifying in reasonable detail the nature of such Termination Event. After the Terminating Party gives written notice of a Termination Event, unless the circumstances constituting the Termination Event have been fully remedied or have ceased to apply, the Terminating Party may (i), with respect to a Termination Event in Sections 4.2(a), 4.2(b), terminate this Agreement with immediate effect by giving written notice of such termination to the other Party and (ii), with respect to a Termination Event occurring under Sections 4.2(c) or 4.2(d), at any time after the expiration of a period of thirty (30) days from the date of written notice of the relevant Termination Event, terminate this Agreement with immediate effect by giving written notice of such termination to the other Party. With respect to a Termination Event occurring under Section 4.2(e), upon Buyer’s receipt of notice thereof, the Parties shall cooperate in good faith to renegotiate this Agreement. In the event the Parties are unable to agree upon a renegotiated Agreement within ninety (90) days, Seller may terminate this Agreement effective as of the earlier of (A) the date that is the expiration of the tenth (10<sup>th</sup>) Contract Year (in the event the Major Gas Sale Event occurs more than three hundred sixty-five (365) days prior to the expiration of the tenth (10<sup>th</sup>) Contract Year), or (B) the date after the tenth (10<sup>th</sup>) Contract Year that is three hundred sixty-five (365) days from the date that Seller delivers written notice to Buyer pursuant to this Section 4.3 (such date, as applicable, the “Major Gas Sale Termination Date”); provided, however, with respect to any Day during the Force Majeure Extension Period in which Seller is unable to comply with its obligations under Section 2.3 due to a Force Majeure Event, the Major Gas Sale Termination Date shall automatically be extended by an additional Day.

**4.4 Reservations.** Termination of this Agreement pursuant to 4.2 or any other provision of this Agreement shall be without prejudice to any other rights and remedies of either Party arising hereunder or by Applicable Law or otherwise which arose or accrued prior to or as a result of such termination or by reason of default of either Party. All rights or remedies which may have accrued to the benefit of any Party (and any of this Agreement's provisions necessary for the exercise of such accrued rights or remedies) prior to the termination or expiration of this Agreement will survive such termination or expiration.

## **5. MEASUREMENT.**

**5.1 Measurement at the Delivery Point.** The measurement standards in effect on the applicable delivery pipelines on the date of delivery will apply to all Gas delivered under this Agreement. Gas shall be measured by a meter located at the Delivery Point, which shall be used to determine both the quantity and quality of Gas received at the Delivery Point by Buyer. Seller shall design, install, and maintain the meter and related interconnect facilities located at the Delivery Point at Seller's sole cost and expense.

**5.2 Measurement for Sale Price.** For purposes of determining the volume of Gas sold to Buyer under this Agreement, such volume shall be determined based on the volume of LNG that is delivered to Buyer by Harvest under the LNG Service Agreement to the extent such LNG is attributable to Gas delivered by Seller at the Delivery Point. Buyer agrees that all measurements at the LNG Delivery Point (as defined in the LNG Service Agreement) shall employ calibrated meters, certified at the time of delivery in accordance with Applicable Law, and corrected in each instance to measure volume in U.S. Gallons. All gauging, sampling and testing of LNG under the LNG Service Agreement shall be performed in accordance with the latest methods of the API MPMS and the ASTM or other acceptable analytical testing methodology. All quantity/volume determinations shall be made in accordance with then currently applicable ASTM methodology. The actual volumes of LNG received at the LNG Delivery Point shall be the measured volumes reported in Gallons and converted to MCF for purposes of determining the volume of Gas sold to Buyer under this Agreement in accordance with the formula described on Exhibit C. For each month during the term, Buyer agrees that it shall provide to Seller all documentation reasonably necessary for Seller to determine the volume of LNG that was delivered at the LNG Delivery Point.

## **6. QUALITY.**

**6.1 Gas Specifications.** Gas delivered to the Delivery Point shall meet the quality specifications set forth in Exhibit B (the "Gas Specifications"). Except for the specifications set forth in Exhibit B, all statutory or other conditions or warranties, express or implied, with respect to the description or satisfactory quality of Gas made available for delivery or its fitness for any particular purpose or otherwise are hereby excluded. Any Gas that fails to conform to such specifications shall be "Off-Spec Gas". In the event Seller has actual knowledge that Gas delivered hereunder constitutes "Off-Spec Gas", it shall promptly notify Buyer and shall provide evidence of any supporting analysis.

**6.2 Off-Spec Gas.** In the event that: (i) Seller informs Buyer that Gas delivered at the Delivery Point is Off-Spec Gas; or (ii) Buyer finds that the Gas fails to meet the Gas Specifications,

based on its own analysis, providing Seller evidence of such analysis, Buyer may, upon notice to Seller, reject such Off-Spec Gas. Such failure to deliver Gas in accordance with the Gas Specifications shall be deemed a failure to deliver under Section 2.4(A)(1), and Customer shall be entitled to all remedies set forth therein. Each delivery of Gas shall be deemed accepted by Buyer if Buyer does not reject such delivery or a Claim has not been formally noticed, within five (5) days after the Gas has been delivered at the Delivery Point. Should Gas later be determined to be defective in breach of the warranty set forth in Section 6.1, the provisions of this Section 6.2 shall control.

**6.3 Limitations of Liability.** With respect to this Agreement, this Article 6 provides the sole and exclusive remedy to Buyer with respect to Off-Spec Gas and no Party shall have any other liability (whether in contract, tort, or otherwise) to any other Party with respect to Off-Spec Gas.

## **7. SALES PRICE; COST ALLOCATION; STATE'S ROYALTY SHARE.**

**7.1 Sales Price.** The Sales Price for Gas purchased and sold hereunder shall be \$2.50 per Mcf; provided, however, commencing on the start of the sixth (6<sup>th</sup>) Contract Year, (a) the Sale Price shall increase at a rate of 2.0% per Contract Year, and (b). with respect to each Contract Year in which the rate of inflation based on the Department of Labor, Bureau of Labor Statistics Consumer Price Index – All Urban Consumers (“CPI”), decreases at a rate greater than 1.5% over such Contract Year period, the Sale Price shall be decreased by the Parties to reflect such CPI decrease; provided, however in no event shall the Sale Price be less than \$2.50/MCF

**7.2 Costs Allocated to Seller.** Seller is responsible for the following costs relating to Gas sold or moved under this Agreement:

- (A) Gas development, production, separation, dehydration;
- (B) Facility construction, operation and maintenance;
- (C) Gas gathering, treatment and compression necessary to meet pipeline specifications and pressures;
- (D) Costs to move Gas to a Delivery Point;
- (E) Lessor royalties, overriding royalties, production payments and other payments of any kind (other than taxes) due to third parties upon the production and sale of the Gas at the Sales Price, but not including Variable Royalties which are the responsibility of Buyer pursuant to Section 7.3(D); and
- (F) Severance and/or production taxes at the tax rates and under the laws and rules in place on the Effective Date, but not including Excess Taxes.

**7.3 Costs Allocated to Buyer:** Buyer is responsible for the following costs relating to Gas sold under this Agreement:

- (A) [Reserved];
- (B) Storage, facilities, equipment, operations, and maintenance costs after delivery at a Delivery Point;
- (C) Taxes imposed on the Gas or Buyer's operations after a Delivery Point;
- (D) Variable Royalties; and
- (E) Excess Taxes.

## **8. INVOICING AND CREDIT REQUIREMENTS.**

**8.1 Billing.** By the fifteenth (15th) Day of each Month, Seller shall give Buyer an invoice showing the following for the previous Month:

- (A) the charge for the Gas showing the volumes of Gas sold times the applicable Sales Price as calculated in accordance with Section 7.1;
- (B) [Reserved];
- (C) the costs allocated to Buyer;
- (D) any corrections for the previous or prior Months;
- (E) any interest charges imposed under Section 8.4;
- (F) any Variable Royalties that have been paid by Seller;
- (F) the total amount due from Buyer to Seller.

## **8.2 Payment.**

(A) Buyer shall make payment to Seller on or before the twenty-fifth (25th) Day of each Month by Automated Clearing House ("ACH") or wire transfer to the account of Seller set out below. Upon thirty (30) Days' written notice, Seller may designate a different financial institution or account to which Buyer will thereafter make payments.

Bank Name: Amegy Bank  
Bank ABA #: 113011258  
Account Name: Hilcorp North Slope, LLC  
Account Number: 53484238

(B) Buyer may set-off against and withhold from amounts payable by Buyer to Seller any and all amounts that are due Buyer by Seller under this Agreement where such amounts have not been credited to Buyer in Seller's invoice.

(C) Buyer may, without prejudice to any claim or right, pay any disputed amount and must pay any undisputed amount. The Parties shall cooperate to resolve any disputed amount in a timely manner.

**8.3 Remedies for Non-Payment.** If Buyer fails to pay undisputed amounts to Seller for Gas within thirty (30) Days after the invoice is received, in addition to any other remedy available, Seller will have the right to cease or curtail deliveries under this Agreement after notice to Buyer until payment (and interest under Subsection 8.4 below) is received, which right will not prejudice Seller's rights to collect any sums due Seller (including interest under Subsection 8.4 below) for Gas previously delivered to Buyer hereunder.

**8.4 Interest.** Pending resolution of a billing dispute, if payment is not made within thirty (30) Days of invoice receipt, the unpaid balance shall bear interest, compounded Monthly, at the prime rate in effect at JPMorgan Chase Bank, NA, plus 1% on the first Day of each Month, or the maximum contract rate permitted by law, whichever is less, plus attorney's fee, court costs, and other costs in connection with the collection of unpaid amounts.

**8.5 Adequate Assurance of Performance.** Failure to Pay or Reasonable Ground for Insecurity: If (i) Buyer fails to pay according to the provisions hereof and such failure continues for a period of ten (10) Business Days after written notice of such failure is provided to Buyer or (ii) Seller has reasonable grounds for insecurity regarding the performance by Buyer of any obligation under this Agreement, then Seller, by written notice to Buyer, may, singularly or in combination with any other rights it may have, demand Adequate Assurance of Performance by Buyer. "Adequate Assurance of Performance" means, at the option of Seller, (x) advance payment in cash by Buyer to Seller for volumes of Gas expected to be sold hereunder in the following two-Month period, as determined by Buyer, or (y) delivery to Seller by Buyer of an acceptable letter of credit in an amount equal to not less than the aggregate proceeds that would be due from Buyer for such volumes of Gas. If Buyer fails to provide Adequate Assurance of Performance to Seller within thirty (30) Business Days of Seller's notice, then Seller shall have the right to cease or curtail all sales of Gas under this Agreement without prior notice and without limiting any other rights or remedies available to it under this Agreement or otherwise. Failure of Seller to exercise its right to suspend or reduce sales of Gas as provided in this Section 8.5 shall not constitute a waiver by Seller of any rights or remedies Seller may have under this Agreement, applicable law, or otherwise.

## **9. WARRANTY OF TITLE.**

Seller warrants title at the Delivery Point to all Gas delivered to Buyer hereunder and Seller's right to deliver the same, and agrees to hold Buyer harmless from, and indemnify it against, any and all loss, damage, cost, expense, or liability of whatsoever kind arising out of claims of third persons with respect to the title to such Gas, including costs, expenses, and reasonable attorney's fees incurred by Buyer in defending against any such claims.

## **10. FORCE MAJEURE.**

**10.1 Force Majeure Event.** In the event either Party is rendered unable wholly or in part by the occurrence of a Force Majeure Event to perform its obligations under this Agreement, the obligation of such Party (other than payment of money), insofar as fulfillment of the obligation is affected by such Force Majeure Event, will be suspended during the continuance of any inability so caused, but for no longer period, and such cause will, insofar as possible, be remedied with reasonable dispatch.

**10.2 Force Majeure Defined.** “Force Majeure Event” means any event that directly or indirectly renders a Party unable, wholly or in part, to perform or comply with any obligation, covenant or condition in this Agreement (or any Force Majeure occurring under the LNG Service Agreement) if the event, or the adverse effects of the event, is outside of the control of, and could not have been prevented by, the affected Party with reasonable foresight, at reasonable cost, and by the exercise of reasonable diligence in good faith, and is not attributable to the negligence or willful misconduct of the affected Party. Force Majeure Events include without limitation the following events (to the extent they otherwise satisfy the definition): (i) act of God, fire, lightning, landslide, earthquake, volcano activity, storm, hurricane, hurricane warning, flood, high water, washout, explosion, or well blowout; (ii) act of the public enemy, war, military operation, blockade, insurrection, riot, epidemic, arrest or restraint by government of people, terrorist act, civil disturbance, or national emergency; (iii) the inability of the affected Party to acquire, or the delay on the part of the affected Party in acquiring materials, supplies, machinery, equipment, servitudes, right of way grants, pipeline shipping capacity, easements, permits or licenses, approvals, or authorizations by regulatory bodies or oil and gas lessors needed to enable the Party to perform; (iv) breakage of or accident to machinery, equipment, facilities, or lines of pipe, and the repair, maintenance, improvement, replacement, test, or alteration to the machinery, equipment, facilities, or lines of pipe; or (v) act, order, or requisition of any Governmental Authority, or any law, proration, regulation, or priority from any Governmental Authority.

**10.3 Notices.** A Party experiencing a Force Majeure Event will notify the other Party by Operational Notice of the nature, extent and estimated duration of the Force Majeure Event as soon as reasonably possible but in no event more than twenty-four (24) hours after becoming aware of the occurrence of the event. The Party experiencing the Force Majeure Event will update the other Party on a reasonably frequent basis but in no event less than once every five (5) Days thereafter by Operational Notice.

**10.4 Diligence.** The Party experiencing a Force Majeure Event shall exercise diligence in good faith to remedy the Force Majeure Event and resume full performance under this Agreement as soon as reasonably practicable (except that the settlement of strikes, lockouts, or other labor disputes or the restoration of a failed natural gas well shall be entirely within the discretion of the affected Party).

**10.5 Extended Force Majeure Events.** If the Party claiming the Force Majeure Event estimates that the Force Majeure Event will not be remedied for a period of more than ninety (90) Days, the Parties shall meet within thirty (30) Days to agree upon a commercially reasonable course of action during the period of the Force Majeure Event that is consistent with the intent of this Agreement. If the Parties are unable to agree upon a commercially reasonable course of action,



either Party, upon sixty (60) Days' notice, may reduce Seller's and Buyer's obligations with respect to the affected portion of the Gas to be made available and taken hereunder; provided however, that the remaining provisions of this Agreement shall apply with respect to the portion of Seller's and Buyer's obligations that are not so reduced.

## **11. INDEMNIFICATION.**

**11.1 Indemnification.** Each Party will protect, defend, indemnify and hold harmless the other from any and all liability and expense on account of all Claims arising from any act or accident including a failure to act, as to which and to the extent that the indemnifying Party was at fault in connection with the installation, presence, maintenance, and operation of property, equipment, and facilities of the indemnifying Party used in connection with or associated with the Gas delivered hereunder. This duty to protect, defend, indemnify, and hold harmless will survive the expiration or termination of this Agreement. The parties to this agreement recognize and agree that the Interior Alaska Natural Gas Utility has no appropriation currently available to it to indemnify Hilcorp North Slope, LLC under this provision and that enactment of an appropriation in the future to fund a payment under this provision remains in the sole discretion of the governing body. In IGU's opinion, as a matter of law, the governing body's failure to make such an appropriation creates no further liability or obligation by the Interior Alaska Natural Gas Utility. Hilcorp disagrees with the legal conclusion set forth in the immediately preceding sentence.

**11.2 No Alteration of Remedy Provisions.** Nothing in this Section 11 shall add to, detract from or otherwise modify the provisions of this Agreement concerning the failure or refusal of Seller to deliver Gas or the failure or refusal of Buyer to receive Gas under this Agreement, for which the sole recourse and remedy is set forth in Section 2.4.

## **12. NOTICES**

**12.1 Regular Notices.** Except as specifically provided otherwise in Sections 2.5 and 10.3 of this Agreement, all notices and communications under this Agreement (other than Operational Notices) will be made in writing by certified mail (return receipt requested), email, or by nationally recognized overnight courier. All such notices will be deemed effective (a) if mailed, on the date indicated on the returned receipt, (b) if delivered personally, when delivered, (c) if sent by email during the normal business hours of the recipient, on the same Business Day as sent, and (d) if sent by email after the normal business hours of the recipient, on the next Business Day following the date of transmission.

### **Seller**

Hilcorp Alaska, LLC

Attn: Vice President Marketing & Business Development

Physical: 3800 Centerpoint Drive, Suite 1400  
Anchorage, AK 99503

Mailing: PO Box 244027  
Anchorage, AK 99524-4027

Email: kgibson@hilcorp.com

## **Buyer**

Interior Alaska Natural Gas Utility  
Attn: Dan Britton, General Manager  
Physical: 2525 Phillips Field Road  
Fairbanks, AK 99709  
Mailing: 2525 Phillips Field Road  
Fairbanks, AK 99709  
Email: [dwbritton@interiorgas.com](mailto:dwbritton@interiorgas.com)

**12.2 Operational Notices.** Any Operational Notice required or permitted to be given to either Party will be given by telephone and confirmed by email, at the telephone numbers and email addresses set forth below (or such other telephone numbers and email addresses as the Parties may designate from time to time by written notice under Section 12.3). Notices given by telephone will be effective immediately and the confirmation by email will be effective as provided in Section 12.1. The Party providing an Operational Notice will attempt to contact the primary contact first. If the primary contact is unavailable to receive notice in a timely manner, the Party providing an Operational Notice will contact the alternate contact.

## **Seller**

Hilcorp North Slope, LLC  
3800 Centerpoint Drive, Suite 100  
Anchorage, AK 99503

### **Primary Contact:**

Kurt Gibson  
Vice President Marketing & Business Development  
Telephone: (907) 777-8407  
Mobile: (907) 980-7527  
Email: [kgibson@hilcorp.com](mailto:kgibson@hilcorp.com)

### **Alternate Contact:**

Susan Ellenbecker  
Marketing Analyst  
Telephone: (907) 777-8318  
Mobile: (907) 529-5196  
Email: [sellenbecker@hilcorp.com](mailto:sellenbecker@hilcorp.com)

## **Buyer**

Interior Alaska Natural Gas Utility  
2525 Phillips Field Road Fairbanks, AK 99709

### **Primary Contact:**

Hilcorp North Slope, LLC, and Interior Alaska Natural Gas Utility  
Gas Sale and Purchase Agreement

Dan Britton  
Telephone: (907) 452-7111  
Mobile: (907) 322-7111  
Email: dwbritton@interiorgas.com

**12.3 Changes in Contact Information.** Either Party may designate address changes by formal written notice as provided in this section.

### **13. GOVERNING LAW AND RESOLUTION OF DISPUTES.**

**13.1 Governing Law.** This Agreement is governed by and interpreted under the laws of the State of Alaska, without regard to its choice of law rules. Arbitration shall be governed by the Revised Uniform Arbitration Act as adopted by the State of Alaska, AS 09.43.300 - .595 (“Arbitration Act”), except as modified in this Agreement.

**13.2 Resolution of Disputes.** Before initiating litigation, the Parties shall work together in good faith to resolve any Dispute between them using direct negotiations and mediation as set out in this Section 13. While the procedures in this Section 13 are pending, each Party shall continue to perform its obligations under this Agreement, unless to do so would be impossible or impracticable under the circumstances.

**13.3 Direct Negotiations.** If a Dispute arises, a Party shall initiate the resolution process by giving notice setting out in writing and in detail the issues in Dispute and the value of the claim to the other Party. A meeting between the Parties, attended by individuals with decision-making authority, must take place within thirty (30) Days from the date the notice was sent in an attempt to resolve the Dispute through direct negotiations.

**13.4 Mediation.** If the Dispute cannot be settled by direct negotiations within thirty (30) Days of initiation of the resolution process, either Party may initiate non-binding mediation by giving notice to the other Party. The place of mediation shall be Anchorage, Alaska. The Parties shall select a mutually acceptable mediator within five (5) Business Days of the notice initiating mediation.

**13.5 Arbitration.** If the Dispute is not resolved by mediation within thirty (30) Days from the date of the notice requiring mediation, or if the Dispute is unresolved within sixty (60) Days from the date of the notice requiring direct negotiations, then the Dispute shall be finally settled by binding arbitration and either Party may initiate such arbitration by giving notice to the other Party. The arbitration shall be conducted in accordance with The International Institute for Conflict Prevention & Resolution (“CPR”) Rules for Non-Administered Arbitration (“CPR Rules”), except to the extent of conflicts between the CPR Rules at present in force and the provisions of this Agreement, in which event the provisions of this Agreement prevail. The CPR is the appointing authority. The place of arbitration shall be Anchorage, Alaska.

**13.6 Procedure.** The following provisions shall apply to any arbitration proceedings commenced pursuant to Section 13.5:

(A) The number of arbitrators shall be one if the monetary value of the Dispute is US \$5,000,000 or less. The number of arbitrators shall be three if the monetary value is greater than US \$5,000,000.

(B) The arbitrator or arbitrators must remain neutral, impartial and independent regarding the Dispute and the Parties. If the number of arbitrators to be appointed is one, that arbitrator, or the presiding arbitrator if the arbitrators are three, must be a lawyer experienced in the resolution of disputes with experience relating to the issues in dispute.

(C) The Parties waive any claim or right to recover for, and the arbitrator has or arbitrators have no power to award, incidental, consequential, punitive or exemplary damages. The arbitrator has or arbitrators have no authority to appoint or retain expert witnesses for any purpose unless agreed to by the Parties. The arbitrator has or arbitrators have the power to rule on objections concerning jurisdiction, including the existence or validity of this arbitration clause and existence or the validity of this Agreement.

(D) All arbitration fees and costs shall be borne equally regardless of which Party prevails. Each Party shall bear its own costs of legal representation and witness expenses.

(E) The arbitrator is or arbitrators are authorized to take any interim measures as the arbitrator considers or arbitrators consider necessary, including the making of interim orders or awards or partial final awards. An interim order or award may be enforced in the same manner as a final award using the procedures specified below. Further, the arbitrator is or arbitrators are authorized to make pre- or post-award interest at the interest rate specified in Subsection 8.4.

(F) The arbitrator or arbitrators must render a reasoned award in writing. This award shall be based upon a decision which must detail the findings of fact and conclusions of law on which it rests.

(G) The Dispute will be resolved as quickly as possible. The arbitrator's or arbitrators' award must be issued within three (3) Months from completion of the hearing, or as soon as possible thereafter.

### **13.7 Enforceability.**

(A) All disputes arising under this Agreement not resolved by the Parties via mediation and/or arbitration will be resolved in the state or federal courts of Alaska in Anchorage, Alaska. Each party, to the extent permitted by law, knowingly, voluntarily, and intentionally waives its right to a trial by jury in any action or other legal proceeding arising out of or relating to this Agreement and the transactions it contemplates. This waiver applies to any action or legal proceeding, whether sounding in contract, tort, or otherwise.

(B) Except for proceedings to preserve property pending determination by the arbitrator or arbitrators or to enforce an award, the mandatory exclusive venue for any judicial proceeding permitted in this Agreement is Anchorage, Alaska. The Parties consent to the jurisdiction of the state and federal courts in Anchorage, Alaska, and waive any defenses they have regarding jurisdiction.

(C) Proceedings to enforce judgment entered on an award may be brought in any court having jurisdiction over the person or assets of the non-prevailing Party. The prevailing Party may seek, in any court having jurisdiction, judicial recognition of the award, or order of enforcement or any other order or decree that is necessary to give full effect to the award.

### **13.8 Confidentiality.**

(A) The Parties agree that any Dispute and any negotiations, mediation and arbitration proceedings between the Parties in relation to any Dispute shall be confidential and will not be disclosed to any third party.

(B) The Parties further agree that any information, documents or materials produced for the purposes of, or used in, negotiations, mediation or arbitration of any Dispute shall be confidential and will not be disclosed to any third party.

(C) Without prejudice to the foregoing, the Parties agree that disclosure may be made:

- (1) In order to enforce any of the provisions of this Agreement including without limitation, the agreement to arbitrate, any arbitration order or award and any court judgment.
- (2) To the auditors, legal advisers, insurers and affiliates of that Party to whom the confidentiality obligations set out in this Agreement shall extend.
- (3) Where that Party is under a legal or regulatory obligation to make such disclosure, but limited to the extent of that legal obligation.
- (4) With the prior written consent of the other Party.

(D) The Parties agree to submit to the jurisdiction of the state and federal courts in Anchorage, Alaska, for the purposes of any proceedings to enforce this Section 13.8.

### **14. [RESERVED].**

### **15. MISCELLANEOUS**

**15.1 Authority.** Each Party covenants to each other Party that it has the legal authority to enter into and perform this Agreement and each obligation assumed by such Party under this Agreement.

**15.2 Further Assurances.** The Parties shall at their own cost and expense execute and deliver such further documents and instruments and shall take such other actions as may be reasonably required or appropriate to evidence or perform the intent and purposes of this Agreement or to show the ability to perform the intent and purposes of this Agreement.

**15.3 No Duty to Third Parties.** This Agreement is made for the sole benefit of the Parties and their respective successors and assigns. The Parties do not intend to create, and this Agreement will not be construed to create, by implication or otherwise, any rights in any other person or entity not a Party to this Agreement, and no such person or entity will have any rights or remedies under or by reason of this Agreement, or any right to the exercise of any right or power hereunder or arising from any default hereunder.

**15.4 No Partnership.** The execution and performance of this Agreement is not intended by the Parties to create and will not be construed to create any partnership or business association between the Parties.

**15.5 Right to Examine Books and Records.** Each Party to this Agreement, at its sole expense, will have the right to audit the books and records of the other Party relating to performance of this Agreement. All audits will be conducted in accordance with professional auditing standards and during normal business hours. The audited Party will fully cooperate with the auditing Party to accomplish the audit as expeditiously as possible. Each Party's right to audit will remain in effect until two (2) years after termination or expiration of this Agreement.

**15.6 Conflicts of Interest.** Each Party represents and warrants to the other Party that said Party or its subcontractors, and its and their owners, shareholders, partners, directors, offices, employees or other agents have neither paid, agreed to pay, nor will pay, any sums, kickbacks, or other such consideration to any owners, shareholders, partners, directors, offices, employees or other agent of the other Party, or to any third party in connection with this Agreement, nor has any such payment or agreement for payment been requested or solicited by any such owners, shareholders, partners, directors, offices, employees or other agents.

**15.7 Binding Nature; Successors and Assigns; Assignment.** This Agreement 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 Agreement shall run for the full term of this Agreement. This Agreement is assignable only with the prior written consent of the other Party, which consent will not be unreasonably withheld. No assignment for which written consent has been received will be effective until the assignee agrees in writing to assume and fully perform the terms of this Agreement.

**15.8 Seller Not A Public Utility.** Seller is not a public utility and nothing contained herein will be deemed as a dedication to the public of the Natural Gas, or any land, wells, pipelines, or other facilities, or any part thereof.

**15.9 Counterparts.** This Agreement may be executed by the Parties in any number of counterparts and on separate counterparts, including electronic transmittals, each of which when so executed will be deemed an original, but all such counterparts, when taken together, will constitute but one and the same Agreement. In the event one Party executes the Agreement, and the other Party does not execute the Agreement within ten (10) Days of the first Party's execution, the execution of the Agreement by the first Party will be deemed null and void.

*The remainder of the page intentionally left blank.*

IN WITNESS WHEREOF, the Parties have executed this Agreement effective as of the date set forth in the preamble.

**IMPORTANT NOTICE: THIS AGREEMENT CONTAINS PROVISIONS REGARDING INDEMNITIES AND WARRANTIES THAT EXPRESS THE AGREEMENT OF THE PARTIES CONCERNING CLAIMS ARISING OUT OF THIS AGREEMENT.**

**HILCORP NORTH SLOPE, LLC**

**INTERIOR ALASKA NATURAL GAS  
UTILITY**

**Signature:**

**Signature:**

---

**Name:** Greg Lalicker

---

**Name:** Dan Britton

**Title:** Chief Executive Officer

**Title:** General Manager

**Date:** January 18, 2023

**Date:** January 18, 2023



## **GAS SALE AND PURCHASE AGREEMENT**

### **Exhibit A Delivery Points**

The following Delivery Point is authorized under this Agreement. Unless otherwise agreed by the Parties, Seller may deliver Gas sold under this Agreement at the Delivery Point listed below.

- (1) The point at which the outlet flange of the delivery pipeline (FFGU-24) connects to the inlet flange of the Lateral Gas Pipeline (as defined in the LNG Service Agreement).

## GAS SALE AND PURCHASE AGREEMENT

### Exhibit B Quality Specifications

Gas received at the Gas Delivery Point:

- (a) shall have a Gross Heating Value of not less than 925 BTU per Standard Cubic Foot and not more than 1100 BTU per Standard Cubic Foot;
- (b) shall contain:

Compositions	Min (mol %)	Max (mol %)
Hydrogen	0	0
Helium	0	0
Carbon Dioxide	0	13
Nitrogen	0	1.1
Methane (C1)	75	100
Ethane (C2)	0	7
Propane (C3)	0	3
i-Butane (i-C4)	0	2
n-Butane (n-C4)	0	0.5
i-Pentane (i-C5)	0	0.5
n-Pentane (n-C5)	0	0.5
Hexane (C6+)	0	0.5
Water vapor	0	1

- (c) shall not contain more than 50 ppm of hydrogen sulfide per one (1) cubic meter;
- (d) shall not contain more than 50 ppm of total sulfur per one (1) cubic meter;
- (e) shall not contain more than thirteen percent (13%) by volume of carbon dioxide;
- (f) shall be as free of oxygen as practicable and shall not in any event contain more than 0.4 Mole % of oxygen;
- (g) shall not contain free liquid and shall not in any event contain more than 7 lbs. of water vapor per one (1) cubic meter;
- (h) shall not contain more than 10 µg/m<sup>3</sup> at 15 C and 101.325 kPa of mercury.

## **GAS SALE AND PURCHASE AGREEMENT**

### **Exhibit C LNG/Gas Conversion**

The volume of Gas delivered under this Agreement shall be determined based on the following conversion equation:

One (1) Mcf of Gas is equivalent to 12.10361 Gallons of LNG and one (1) Gallon of LNG is equivalent to 3.55 pounds of LNG; *provided* that if, at any time and from time to time and with respect to any relevant volumes of Gas or LNG, Seller determines in good faith that the conversion equation should be adjusted, whether based on sampling or testing of Gas delivered or LNG lifted or otherwise, then Seller shall deliver notice of such determination to Buyer. Unless Buyer objects to such determination in writing by notice to Seller within five (5) Business Days thereafter, such determination by Seller shall be binding upon the Parties and shall govern and control for the relevant periods and volumes to which it applies. Any dispute between the Parties with respect to any such determination shall be resolved in accordance with the procedures set forth in Section 13.

**LNG MANUFACTURING SERVICE AGREEMENT**

**between**

**HARVEST ALASKA LNG, LLC**

**and**

**INTERIOR ALASKA NATURAL GAS UTILITY**

**dated January [18], 2023**

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#### **Exhibits**

Exhibit A	Gas Delivery Point and NGL Delivery Point
Exhibit B	Services Manual
Exhibit C	Form of Access Agreement
Exhibit D	Form of Parent Guarantee

#### **Schedules**

Schedule A	LNG Facility
Schedule B-1	Minimum Volume Commitment

Schedule B-2	Monthly Allocation of MVC for Contract Year 0
Schedule C	Gas Quality Specifications
Schedule D	LNG Quality Specifications
Schedule E	Service Fees
Schedule F	Insurance



**THIS LNG MANUFACTURING SERVICE AGREEMENT** (this “**Agreement**”), is made and entered into on this [18]<sup>th</sup> day of January, 2023 (the “**Effective Date**”), by and between:

- (1) **HARVEST ALASKA LNG, LLC**, a Delaware limited liability company (“**Service Provider**”), and
- (2) **INTERIOR ALASKA NATURAL GAS UTILITY**, a public corporation and a wholly owned subsidiary of Fairbanks North Star Borough (“**Customer**” and with Service Provider, collectively, the “**Parties**” and each a “**Party**”).

**WHEREAS:**

- (A) Service Provider intends to construct, own and operate (or cause to be constructed, owned and operated) the LNG Facility (as defined below);
- (B) Customer desires to purchase liquefaction and related services from Service Provider on terms and conditions specified hereunder, for the delivery of Gas (as defined below) to and the lifting of LNG (as defined below) from the LNG Facility;
- (C) In connection with the performance by Customer of its obligations hereunder, Customer will enter into a Gas Sales Agreement (as defined below) with Producer (as defined below), providing for the purchase of Gas from the Producer and the return of any NGLs (as defined below) (and, if applicable, carbon dioxide) extracted from the Gas to the Producer; and
- (D) Service Provider desires to make liquefaction and related services available to Customer in accordance with the provisions hereof.

**NOW THEREFORE THIS AGREEMENT WITNESSES** that in consideration of the covenants, representations and agreements contained herein, and other good and valuable consideration (the receipt and sufficiency of which is hereby acknowledged), the Parties agree as follows:

**1. DEFINITIONS, INTERPRETATIONS, AND SCHEDULES**

**1.1 Definitions**

Capitalized words used in this Agreement shall have the meaning set forth below:

“**Acceptable Bank**” means a bank having offices in the United States where drawings can be made and paid, having a credit rating of not less than A- by Standard & Poor’s Financial Services LLC or A3 by Moody’s Investors Service, Inc., in each case as of the date such bank is proposed to issue a standby letter of credit, and from time to time thereafter while such letter of credit is issued.

“**Access Agreement**” has the meaning given in Clause 3.3.3.

“**Affiliate**” means, with respect to any Person, any other Person that controls, is controlled by, or is under common control with such Person. For these purposes, “control” means the power (whether by ownership, directly or indirectly, of shares, by contract or otherwise) to control the affairs of a Person generally, including by ownership of more than fifty percent (50%) of the voting rights of a Person.

**“Agreement”** means this agreement together with all its recitals, Exhibits and Schedules attached hereto.

**“Annual Delivery Program”** has the meaning given in Clause 6.1.2.

**“Applicable Law”** means, in relation to any Person, transaction or event, all applicable provisions of laws, statutes, rules, ordinances, regulations, official directives, published guidelines or policies, bylaws, standards and codes of practice of, and the terms of all judgments, orders, permits, authorizations, approvals, grants, licenses, consents, injunctions, awards, determinations and decrees enacted, made, granted or issued by any Authorized Authority applicable to such Person, transaction or event.

**“Authorized Authority”** means, in relation to any Person, transaction or event, any: (i) federal, provincial, state, municipal or local governmental body (whether administrative, legislative, executive or otherwise), both domestic and foreign; (ii) agency, authority, commission, bureau, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government; (iii) court, tribunal, arbitrator, commission or body exercising judicial, quasi-judicial, administrative or similar functions; and (iv) other body or entity created under the authority of or otherwise subject to the jurisdiction of any of the foregoing, including securities exchanges, in each case having jurisdiction over such Person, transaction or event.

**“Base Service Fee”** has the meaning given in Schedule E.

**“Btu”** means the amount of heat equal to one thousand fifty-five decimal zero five six (1,055.056) joules.

**“Business Day”** means a day on which banks are generally open for the transaction of commercial business in Fairbanks, Alaska but does not in any event include a Saturday or a Sunday or statutory holiday in Fairbanks, Alaska.

**“Buyer”** has the meaning given in Clause 23.12.2.

**“Certificate of Quality”** has the meaning given in Clause 11.1.2.

**“Change in Law or Standard”** means (a) any change in any Applicable Law or any LNG Terminal Standards as in effect on the Effective Date, including the enactment, adoption, promulgation or imposition of any new Applicable Law or any new LNG Terminal Standards; or (b) any change in interpretation or application of any Applicable Law or any LNG Terminal Standards after the Effective Date.

**“Claim”** means any and all proceedings, actions, suit, assessments, reassessments or claims of whatsoever nature or kind including regulatory or administrative (whether or not under common law, on the basis of contract, negligence, strict or absolute liability or liability in tort, or arising out of requirements of Applicable Law), imposed on, suffered by, or asserted against any Person or any property, whether absolute or contingent.

**“Commencement Date”** has the meaning given in Clause 5.3.1.

**“Compliance Costs”** has the meaning given in Clause 4.2.2.

**“Confidential Information”** has the meaning given in Clause 19.1.

**“Contract Year”** means a period of twelve (12) consecutive months commencing on July 1 and ending on June 30 of the following calendar year; *provided that* (i) the initial Contract Year (referred to as **“Contract Year 0”**) will be a stub period commencing on the Commencement Date and ending on the immediately following June 30, and (ii) the first Contract Year (and for purposes of counting under this Agreement, this will be **“Contract Year 1”**) shall commence on the immediately following July 1 thereafter, with each Contract Year commencing on the anniversary thereof.

**“Cover Price”** has the meaning given in Clause 3.4.5(b).

**“Customer”** has the meaning given in the preamble.

**“Customer Indemnified Parties”** has the meaning given in Clause 15.1.1.

**“Customer’s Board”** means the board of directors or other governing body of Customer charged with the responsibility of appropriating funds to cover or support Customer’s obligations under this Agreement.

**“Customer’s Inventory”** means the quantity in Mcf, MMBtu and/or Gallons (as applicable) that represents LNG, NGLs, carbon dioxide and Gas held at the LNG Facility for Customer’s account, which is equal to (a) the quantity of Gas received at the Gas Delivery Point for Customer’s account *minus* (b) Retainage *minus* (c) the quantity of LNG delivered to Customer at the LNG Delivery Point *minus* (d) the quantity of NGLs delivered at the NGL Delivery Point *minus* (e) the quantity of carbon dioxide delivered at the NGL Delivery Point.

**“Daily Gas Quantity”** has the meaning given in Clause 6.3.1.

**“Default Rate”** means Prime Rate plus three (3) percentage points compounded on a monthly basis.

**“Deficiency Fee”** has the meaning given in Schedule E.

**“Delay Liquidated Damages”** has the meaning given in Clause 5.3.3.

**“Delay Liquidated Damages Cap”** has the meaning given in Clause 5.3.3.

**“Delay Liquidated Damages Date”** has the meaning given in Clause 5.3.3.

**“Dispute”** has the meaning given in Clause 21.1.1.

**“Downstream Force Majeure Event”** means an event constituting Force Majeure with respect to Customer that prevents or delays performance by Customer of its obligations to lift relevant Scheduled Loading Quantities from the LNG Delivery Point hereunder, including, to the extent satisfying the foregoing definition, those Force Majeure events described in clause (ii) of Clause 14.1(f).

**“Early Termination Event”** has the meaning given in Clause 16.1.

**“Economic Sanctions”** has the meaning given in Clause 18.2.2.

**“Effective Date”** has the meaning given in the preamble.

**“Encumbrance”** means a mortgage, charge, pledge, lien, restriction, Third Party right or security interest or other encumbrance securing any obligation of any Person or any other type of preferential arrangement (including title transfer and retention arrangements and rights of first refusal) having a similar effect.

**“Escalation Factor”** has the meaning given in Schedule E.

**“Excess Retainage Credit”** has the meaning given in Clause 4.3.

**“Excess Service Fee”** has the meaning given in Schedule E.

**“Excess Volumes”** has the meaning given in Clause 3.1.1(d).

**“Expanded Capacity”** has the meaning given in Clause 7.6.2.

**“Expert”** means the Person appointed as such pursuant to Clause 21.3.

**“Facility Sale”** has the meaning given in Clause 23.12.1.

**“Failure to Deliver”** has the meaning given in Clause 3.5.1.

**“Failure to Lift”** has the meaning given in Clause 3.5.1.

**“Financing Costs”** has the meaning given in Clause 4.2.1.

**“Firm Capacity Service”** means, on any Gas Day, the provision of Services for Customer on a priority basis ahead of any other customer of the LNG Facility at a capacity up to the lesser of the Initial Nameplate Capacity and the Maximum Daily Gas Quantity, where such Services may only be interrupted or curtailed for Scheduled Maintenance, Unscheduled Maintenance, or Force Majeure after all other customers of the LNG Facility have been fully bypassed or curtailed.

**“Force Majeure”** has the meaning given in Clause 14.1.1.

**“Gallon”** means one (1) U. S. liquid gallon containing two hundred thirty-one (231) cubic inches of liquid when the liquid is at a temperature of sixty degrees (60°) Fahrenheit and at the vapor pressure of the liquid being measured.

**“Gas”** means any hydrocarbon or mixture of hydrocarbons consisting essentially of methane, other hydrocarbons and non-combustible gases in a gaseous state at a pressure of approximately one (1) atmosphere and at a temperature of sixty degrees (60°) Fahrenheit, and which is extracted from the subsurface of the earth in its natural state, separately or together with liquid hydrocarbons.

**“Gas Day”** means a period of twenty-four (24) consecutive hours, beginning and ending at midnight, Alaska Standard Time.

**“Gas Delivery Point”** means the point at which deliveries of Gas will be made by Customer to Service Provider hereunder, which shall be the point where the final outlet

flange of the pipeline utilized by Producer to deliver such Gas connects to the inlet flange of the Lateral Gas Pipeline at the point of interconnection as depicted on Exhibit A.

**“Gas Delivery Schedule”** has the meaning given in Clause 6.3.1.

**“Gas Sales Agreement”** means the Gas Sale and Purchase Agreement by and between Customer and the Producer, dated on or about the date of this Agreement, or any other gas sales agreement entered into with a Producer for the supply and delivery of Gas required hereunder.

**“Gas Supply Area”** means the Prudhoe Bay Field or other geographic area from which the Producer intends to supply Gas to Customer under a Gas Sales Agreement.

**“Government Official”** has the meaning given in Clause 18.2.1.

**“Gross Negligence or Willful Misconduct”** means an act or failure to act (whether sole, joint, or concurrent) by a Party or any other Person that was intended to cause, or which was undertaken with reckless disregard of, or wanton indifference to, the harmful consequences such Party or other Person knew or should have known such act or failure would have had on the safety or property of another Person.

**“Initial Nameplate Capacity”** has the meaning given in Schedule A.

**“Insolvency Event”** occurs in relation to a Party if:

- (a) the Party commences (or consents to the commencement of) a voluntary case or other proceeding to be adjudicated a voluntary bankrupt or seeking liquidation, reorganization or other relief with respect to itself or its debts under any bankruptcy, insolvency, reorganization or other similar law of any jurisdiction now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of it, or consents to the filing of a bankruptcy proceeding against it or to any such relief or to the appointment of or taking possession by any such official in an involuntary case or other proceeding commenced against it;
- (b) an involuntary case or other proceeding is commenced against the Party seeking liquidation, reorganization or other relief with respect to it or its debts under any bankruptcy, insolvency, reorganization or other similar law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or any substantial part of its property, and such involuntary case or other proceeding shall remain undismissed and unstayed for a period of ten (10) days; or
- (c) an order for relief shall be entered against that Party under the Applicable Laws respecting bankruptcy or insolvency.

**“Inventory Days”** means, as of any date of determination and with respect to any relevant period of time from and after such date, the number of days’ worth of LNG or Gas inventory that Customer and its Affiliates collectively have in storage to service anticipated demand from customers of Customer and its Affiliates as of such date (assuming full depletion of such inventory over such period without replenishment), which shall be

calculated as follows: (x) the aggregate amount of LNG or Gas inventory that Customer and its Affiliates collectively have in storage in facilities owned and/or operated by Customer or any of its Affiliates as of such date (not including Customer's Inventory at the LNG Facility) *divided by* (y) the anticipated average daily demand for Gas from the customers of Customer and its Affiliates during the relevant calculation period from and after such date, as reflected in the then-current Ninety Day Schedule. Such calculation shall be made by Customer reasonably and in good faith.

**"Keep Cool Quantity"** has the meaning given in Clause 6.3.2.

**"Lateral Gas Pipeline"** means the lateral pipeline system to be constructed as part of the LNG Facility that will be utilized to receive Gas at the Gas Delivery Point and deliver such Gas to the LNG Facility for the production of LNG.

**"Lateral NGL Pipeline"** means the lateral pipeline system to be constructed as part of the LNG Facility that will be utilized to deliver NGLs (and, if applicable, carbon dioxide) from the LNG Facility to the NGL Delivery Point.

**"Lenders"** has the meaning given in Clause 23.11.

**"LNG"** means Gas in a liquid state at or below its boiling point and at a pressure of approximately one (1) atmosphere.

**"LNG Delivery Point"** has the meaning given in Clause 3.3.1.

**"LNG Facility"** means the Gas liquefaction plant comprised initially of a single Train and including utilities, flares, storage tanks, loading lines and bays, residential buildings, workshops, offices, control center, communications systems, Lateral Gas Pipeline and a Lateral NGL Pipeline at or near Deadhorse, Alaska, as such facilities may be modified from time to time in accordance with Article 7 of this Agreement.

**"LNG Specifications"** has the meaning given in Clause 11.1.1.

**"LNG Terminal Standards"** means the international standards and practices applicable to the design, construction, equipment, operation or maintenance of an LNG liquefaction terminal, taking into account conditions and practices prevailing in North America, and established by the following (which standards shall apply in the following order of priority): (a) any Authorized Authority having jurisdiction over the LNG Facility; and (b) any other internationally recognized non-governmental agency or organization with whose standards and practices it is customary for Reasonable and Prudent Operators of LNG terminals in North America to comply; *provided that* in the event of any conflict between such LNG Terminal Standards and Applicable Law, the Applicable Law (if stricter) shall prevail irrespective of any lack of conformity thereof with LNG Terminal Standards.

**"Maximum Daily Gas Quantity"** has the meaning given in Clause 3.1.2.

**"Mcf"** means one thousand (1,000) Standard Cubic Feet.

**"Minimum Lifting Requirement"** has the meaning given in Clause 3.2.1(c).

**"Minimum Volume Commitment"** or **"MVC"** has the meaning given in Clause 3.1.1.

“**MMBtu**” means one million (1,000,000) Btus.

“**MVC Purchased Volumes**” has the meaning given in Clause 3.1.1(b).

“**MVC Reduction Credit**” means, for any Contract Year, the quantity in Gallons of LNG, determined by Service Provider in accordance with Clause 3.4.5 or Clause 3.5.2, as applicable, by which the Minimum Volume Commitment will be reduced for such Contract Year.

“**NGL Delivery Point**” means the point at which deliveries of NGLs (and, if applicable, carbon dioxide) will be made by Service Provider to Producer hereunder, on behalf of Customer pursuant to the Gas Sales Agreement, which shall be the point where the final outlet flange of the Lateral NGL Pipeline connects to the inlet flange of the pipeline utilized by Producer to receive such NGLs (and, if applicable, carbon dioxide) at the point of interconnection as depicted on Exhibit A.

“**NGLs**” means liquid hydrocarbons capable of being separated or extracted from Gas, including ethane, propane, butane and longer-chain hydrocarbons.

“**Ninety Day Schedule**” has the meaning given in Clause 6.2.1.

“**Notices**” means a notice, invoice, consent, request, notification or other communications given by one Party to the other Party in accordance with the requirements of Article 22.

“**Off-Spec Gas**” has the meaning given in Clause 10.1.

“**Off-Spec LNG**” has the meaning given in Clause 11.1.1.

“**Operational Capacity**” means the actual capacity of the LNG Facility to produce LNG from time to time, expressed in Mcf, MMBtu and/or Gallons, as determined by Service Provider and taking into account any variations resulting from ambient conditions and Scheduled Maintenance.

“**Parent Guarantee**” has the meaning given in Clause 13.9.2.

“**Party**” and “**Parties**” have the respective meanings given in the preamble.

“**Performance Assurance**” has the meaning given in Clause 13.8.1.

“**Person**” means, without limitation, any individual, partnership (whether general or limited), corporation (including a non-profit corporation), limited liability company, joint venture, estate, trust, association, organization, union, pension fund, government or department or agency thereof or other entity, and shall include any successor (by merger or otherwise) of such entities.

“**Phase 3**” means, with respect to any Scheduled Loading Window, a condition that will be deemed to exist if there are severe weather conditions at the North Slope during such Scheduled Loading Window that result in an Authorized Authority (or the operator of the Prudhoe Bay Unit, if applicable) formally declaring a restriction on travel on the North Slope other than by heavy equipment convoy for critical or emergency operations only.

“**PPI-FG**” has the meaning given in Schedule E.

“**Primary Term**” has the meaning given in Clause 5.1.

“**Prime Rate**” means, as of any date of determination, the U.S. interbank prime lending rate, as published in the *Wall Street Journal* with reference to the applicable date of determination.

“**Producer**” means Hilcorp Alaska, LLC, or any other producer that has entered into a Gas Sales Agreement with Customer.

“**Producer At-Fault Event**” means an Upstream Force Majeure Event that arises from an event other than a Producer FM Event.

“**Producer FM Event**” means an Upstream Force Majeure Event that arises from a failure by Producer to deliver Gas to the Gas Delivery Point as nominated by Customer under the Gas Sales Agreement as a result of a Force Majeure Event (as defined in the Gas Sales Agreement in effect as of the Effective Date).

“**Purchase Offer**” has the meaning given in Clause 23.12.2.

“**Rating Agency**” means any of Standard & Poor’s Rating Services, Moody’s Investors Service, Inc., or Fitch Investors Service, Inc., or any of their respective successors.

“**Reasonable and Prudent Operator**” means a Person seeking in good faith to perform its contractual obligations, recognizing Customer’s critical reliance on Service Provider to provide LNG that Customer utilizes to service its firm utility consumers, and in doing so, and in the general conduct of its undertaking, exercising that degree of skill, diligence, prudence, and foresight which would reasonably and ordinarily be expected from a skilled and experienced operator complying with all Applicable Laws and agreements and engaged in the same type of undertaking under the same or similar circumstances or conditions.

“**Retainage**” has the meaning given in Clause 8.4.

“**ROFR Election Notice**” has the meaning given in Clause 23.12.3.

“**ROFR Price**” has the meaning given in Clause 23.12.2.

“**ROFR Sale Notice**” has the meaning given in Clause 23.12.2.

“**Scheduled Loading Quantity**” means, with respect to any Scheduled Loading Window, the quantity of LNG, expressed in Mcfs, MMBtus and/or Gallons, to be delivered for Customer’s account in connection with such Scheduled Loading Window.

“**Scheduled Loading Window**” means a period of twenty-four (24) consecutive hours, beginning at 06:00 hours local time at the LNG Facility.

“**Scheduled Maintenance**” has the meaning given in Clause 7.4.

“**Service Provider**” has the meaning given in the preamble.



**“Service Provider Indemnified Parties”** has the meaning given in Clause 15.1.2.

**“Services”** has the meaning given in Clause 2.1.1.

**“Service Fees”** has the meaning given in Clause 4.2.1.

**“Services Manual”** has the meaning given in Clause 3.3.3.

**“Services Unavailability”** has the meaning given in Clause 3.4.1.

**“Shortfall Quantities”** has the meaning given in Clause 3.4.1.

**“Standard Cubic Foot”** means the amount of Gas that would occupy a volume of one cubic foot at a temperature of sixty degrees (60°) Fahrenheit and at a pressure of fourteen and sixty-five hundredths (14.65) pounds per square inch absolute.

**“Transport Truck”** means (a) a tanker truck or (b) an ISO cryogenic tank container truck, in each case, having the specifications set forth in the Services Manual utilized by the relevant Transporter to lift LNG at, and transport LNG from, the LNG Delivery Point.

**“Taxes”** means all taxes, however denominated, including any interest, penalties or other additions that may become payable in respect thereof, imposed by any national, provincial, state, county, territorial, municipal or foreign government or any agency or political subdivision of any such government, which taxes shall include, all income or profits taxes, capital taxes, withholding taxes, payroll and employee withholding taxes, employment insurance, social insurance taxes, sales taxes, franchise taxes, gross receipts taxes, business license taxes, occupation taxes, real and personal property taxes, stamp taxes, environmental taxes, transfer taxes, (including land transfer taxes) workers’ compensation and other governmental charges, and other obligations of the same or of a similar nature to any of the foregoing, and “Tax” shall have a corresponding meaning.

**“Target Commencement Date”** has the meaning given in Clause 5.3.2.

**“Term”** has the meaning given in Clause 5.1.

**“Terminating Party”** has the meaning given in Clause 16.2.

**“Third Party”** means any Person other than the Parties or any Affiliate of any of them.

**“Train”** means an LNG liquefaction train at the LNG Facility, including turbines, compressors, heat exchangers, cooling systems and other facilities and infrastructure dedicated for use therewith.

**“Transporter”** means the Transport Truck carrier.

**“Unscheduled Maintenance”** has the meaning given in Clause 7.5.

**“Upstream Facilities”** means all assets and facilities for the production and delivery of Gas from the Gas Supply Area to be delivered to the Gas Delivery Point, including Gas fields, wells, well heads, pumps, gathering systems, equipment for the handling, processing, disposal, injection, withdrawal, storage and treatment of Gas, liquids and water, roads, easements, environmental treatment systems, dams, control systems, production

platforms, transportation, compression and treatment facilities and pipeline system necessary to deliver the Gas to the Gas Delivery Point (including any alterations or modifications to such assets or facilities), whether or not such assets and facilities are owned or operated by Service Provider or an Affiliate thereof.

**“Upstream Force Majeure Event”** means an event constituting Force Majeure with respect to Customer that affects the Upstream Facilities or otherwise prevents or delays performance by Customer of its obligations to deliver Gas to the Gas Delivery Point hereunder, including, to the extent satisfying the foregoing definition, those Force Majeure events described in clause (i) of Clause 14.1(f) or in Clause 14.1(j).

**“US Dollars”** or **“\$”** or **“Dollars”** means the lawful currency of the United States of America.

**“Variable Cost Component”** has the meaning given in Schedule E.

**“Volume Deficiency”** has the meaning given in Clause 3.1.1(c).

## **1.2 Interpretations**

1.2.1 In this Agreement, subject to any express contrary indication:

- (a) Consent - Whenever a provision of this Agreement requires an approval or consent of a Party and such approval or consent is not delivered within the applicable time limit, then, unless otherwise specified, the Party whose consent or approval is required shall be conclusively deemed to have withheld its approval or consent.
- (b) Currency - Unless otherwise specified, all references to money amounts are to US Dollars.
- (c) Headings - Headings of Articles and Clauses are inserted for convenience of reference only and do not affect the construction or interpretation of this Agreement.
- (d) Including - Where the word “including” or “includes” is used in this Agreement, it means “including (or includes) without limitation”.
- (e) Or – Unless expressly provided otherwise herein, references to the word “or” are not exclusive and shall mean “and/or” as the context requires.
- (f) No Strict Construction - The language used in this Agreement is the language chosen by the Parties to express their mutual intent, and no rule of strict construction shall be applied against any Party.
- (g) Number and Gender - Unless the context otherwise requires, words importing the singular include the plural and vice versa and words importing gender include all genders.
- (h) Statutory References - A reference to a statute includes all regulations and rules made pursuant to such statute and, unless otherwise specified, the

provisions of any statute, regulation or rule which amends, supplements or supersedes any such statute, regulation or rule.

- (i) Time Periods – References to “day”, “month”, “quarter” and “year” shall, unless otherwise stated or defined, mean a day, month, quarter, and year of the Gregorian calendar, respectively. For the avoidance of doubt, a “day” shall commence at 00:00 midnight.
- (j) Payment Dates - Unless otherwise specified, if this Agreement contemplates a Party having the obligation to make a payment on a day that is not a Business Day, then such payment shall be made on the Business Day that occurs immediately following the original payment due date.
- (k) Instrument References - Reference to any agreement, document or instrument means such agreement, document or instrument as amended, restated or modified and in effect from time to time in accordance with the terms thereof.
- (l) Agreement References - References to an Article, Clause, Paragraph or Schedule by number or letter or both refer to this Agreement.
- (m) Grammatical Variations - A grammatical variation of a defined term shall have the same meaning as the original defined term
- (n) Person – Any reference to a Person herein shall include its successors and assigns.
- (o) Equivalent Gas – Any reference to an “equivalent amount” of Gas (or similar language) with respect to an amount of LNG (or vice versa) shall be determined based on the following conversion equation: 1 Mcf of Gas is equivalent to 12.10361 Gallons of LNG; *provided* that if, at any time and from time to time and with respect to any relevant volumes of Gas or LNG, Service Provider determines in good faith that the conversion equation should be adjusted, whether based on sampling or testing of Gas delivered or LNG lifted hereunder or otherwise, then Service Provider shall deliver Notice of such determination to Customer. Unless Customer objects to such determination in writing by Notice to Service Provider within five (5) Business Days thereafter, such determination by Service Provider shall be binding upon the Parties and shall govern and control for the relevant periods and volumes to which it applies. Any dispute between the Parties with respect to any such determination shall be resolved in accordance with the procedures set forth in Clause 21.3.

1.2.2 If any provisions of the Schedules at any time conflict with any of the other provisions of this Agreement, the provisions of this Agreement shall prevail.

### **1.3 Rounding**

Except as otherwise provided herein, all calculations made under this Agreement shall be made to eight (8) places of decimals without rounding and the value so calculated shall be

rounded in accordance with ISO 80000-1, which is the standard of the International Organization for Standardization entitled “Quantities and units Part 1: General.”

## 2. SERVICES AND SCOPE

### 2.1 Services to be Provided

2.1.1 Services. As of the Commencement Date and for the duration of the Term, subject to the other terms and provisions of this Agreement, Service Provider shall make available the following services to Customer on a Firm Capacity Service basis at the LNG Facility (such available services being the “**Services**”) in the manner and to the extent set forth in this Agreement:

- (a) the receipt of Gas delivered by or on behalf of Customer, at the Gas Delivery Point in accordance with Customer’s nominations at a daily rate not to exceed the Maximum Daily Gas Quantity;
- (b) the treatment, processing (including the separation and extraction of carbon dioxide, water, sulfur and NGLs from Gas) and liquefaction of Gas following receipt of such Gas at the Gas Delivery Point;
- (c) the temporary storage of Customer’s Inventory at the LNG Facility, with such entitlement to storage of Customer’s Inventory based on the relevant amount of LNG produced for Customer’s account as compared to other customers of the LNG Facility during the relevant period of calculation;
- (d) the delivery of LNG at the LNG Delivery Point;
- (e) the delivery of any NGLs at the NGL Delivery Point;
- (f) if applicable, the delivery of any carbon dioxide that has been extracted from the Gas at the NGL Delivery Point;
- (g) the procurement and maintenance of all relevant permits, approvals, and authorizations from any Authorized Authority necessary to operate the LNG Facility and provide the Services hereunder; and
- (h) other activities directly related to performance of the foregoing.

2.1.2 Standard of Performance. Service Provider shall act as a Reasonable and Prudent Operator in performing the Services.

2.1.3 Performance of Services. Service Provider shall have the right to perform any of the Services itself, or to cause such performance through another Person having the qualifications required under Applicable Laws, including operating any portion of the LNG Facility through one or more Persons; *provided that* Service Provider shall act as a Reasonable and Prudent Operator in delegating the Services to another Person and any such delegation shall not relieve Service Provider of its obligations hereunder.

## 2.2 Activities Outside Scope of Services

The Parties agree that the following activities, among others, are not part of Services to be provided by Service Provider to Customer hereunder:

- 2.2.1 the production, purchase or other acquisition of Gas and related activities;
- 2.2.2 the construction, operation, ownership, maintenance, repair and removal of Upstream Facilities;
- 2.2.3 the transportation of Gas to the Gas Delivery Point and related activities, the transportation of LNG from the LNG Delivery Point and related activities, and the transportation of NGLs or carbon dioxide from the NGL Delivery Point and related activities;
- 2.2.4 the marketing of LNG and all activities related thereto; and
- 2.2.5 except in accordance with Clause 7.6, adding one or more additional Trains to, or otherwise expanding, the LNG Facility to increase its output capacity of LNG above the Initial Nameplate Capacity.

## 2.3 Additional Services

The Parties may agree to amend this Agreement to provide for additional services that Service Provider will make available to Customer in addition to the Services set forth in Clause 2.1.

# 3. SALE AND PURCHASE OF SERVICES

## 3.1 Service Quantities and Commitments

3.1.1 Minimum Volume Commitment. Subject to the terms and conditions hereunder, including Clause 5.2.4 and any applicable MVC Reduction Credit, during each Contract Year, Customer hereby agrees to accept and lift at, and Service Provider hereby agrees to deliver to, the LNG Delivery Point an aggregate minimum volume of LNG as set forth in Schedule B-1 for such Contract Year (for each Contract Year, such volume, subject to modification as expressly provided herein, the “**Minimum Volume Commitment**” or “**MVC**”); *provided* that, for Contract Year 0, to the extent such Contract Year does not comprise a full 12-month Contract Year, the MVC identified in Schedule B-1 for such Contract Year shall be reduced based on the calendar months that actually make up such Contract Year (as compared to a full 12-month Contract Year), as provided in Schedule B-2. In connection with the foregoing commitment:

- (a) on any Gas Day during a Contract Year, Customer shall exclusively procure LNG from Service Provider; *provided, however*, that Customer is permitted to procure LNG on a Gas Day from an alternative source in the following cases:
  - (i) if Customer requires LNG in excess of the amount equivalent to the Maximum Daily Gas Quantity for such Gas Day and Service

Provider is unable to or unwilling to provide such excess LNG, to procure such excess amount; or

- (ii) if Service Provider is unable to deliver LNG to the LNG Delivery Point on such Gas Day due to a Services Unavailability, to procure the quantity of LNG that Service Provider was unable to deliver;
- (b) any volume of LNG lifted at the LNG Delivery Point hereunder during a Contract Year up to the volume equal to the Minimum Volume Commitment for such Contract Year shall be referred to herein as “**MVC Purchased Volumes**”, and, for such MVC Purchased Volumes, Customer shall be liable to pay Service Provider the Base Service Fee in accordance with Clause 4.2.1;
- (c) to the extent that the MVC Purchased Volumes by Customer during a Contract Year are less than the Minimum Volume Commitment for such Contract Year (such difference being the “**Volume Deficiency**”), Customer shall be liable to pay Service Provider a Deficiency Fee associated with such Volume Deficiency in accordance with Clause 4.2.1, and Customer shall not be entitled to any makeup of volumes associated with such Volume Deficiency; and
- (d) without expanding on Service Provider’s obligation to provide Firm Capacity Service, for any Contract Year, if Customer nominates and Service Provider accepts to deliver a volume of LNG during such Contract Year in excess of the Minimum Volume Commitment for such Contract Year (such excess being the “**Excess Volumes**”), then, for such Excess Volumes, Customer shall be liable to pay Service Provider the Excess Service Fee in accordance with Clause 4.2.1.

3.1.2 Maximum Daily Gas Quantity. Subject to the terms and conditions hereunder, on any Gas Day, Customer shall have the right to deliver to the LNG Facility at the Gas Delivery Point the number of cubic feet of Gas equivalent to the amount equivalent to the Initial Nameplate Capacity (such amount, subject to modification as expressly provided herein, the “**Maximum Daily Gas Quantity**”); *provided, however*, that (a) to the extent that Customer nominates less than the Maximum Daily Gas Quantity on any Gas Day, the Maximum Daily Gas Quantity for such Gas Day shall be the quantity of Gas required to satisfy Customer’s Daily Gas Quantity nominations under the Gas Delivery Schedule in accordance with Article 6 for such Gas Day and (b) the Maximum Daily Gas Quantity shall be subject to reduction as provided in Clause 13.5.4.

### 3.2 Customer’s Obligations

3.2.1 Generally. Subject to the terms and conditions hereunder, Customer shall:

- (a) during each Gas Day, deliver to Service Provider the Daily Gas Quantity at the Gas Delivery Point in accordance with the Gas Delivery Schedule;

- (b) during each Contract Year, subject to Clause 3.3, lift or cause to be lifted the Scheduled Loading Quantity from the LNG Delivery Point in accordance with the Annual Delivery Program or the Ninety Day Schedule; and
- (c) during each Scheduled Loading Window following Contract Year 0, lift or cause to be lifted at least 75,000 Gallons of LNG (“**Minimum Lifting Requirement**”), unless a lesser amount is otherwise accepted by Service Provider in accordance with the scheduling procedures set forth in Article 6. For the avoidance of doubt, Customer shall not be required to meet the Minimum Lifting Requirement during any Scheduled Loading Window that is impacted by Phase 3 restrictions and shall not be liable for any damages suffered by Service Provider due to Customer’s inability to meet the Minimum Lifting Requirements during any such Scheduled Loading Window.

3.2.2 Limited Right to Schedule No Deliveries. On any Gas Day, if Service Provider has accepted a Scheduled Loading Quantity below the Minimum Lifting Requirement in accordance with Clause 3.2.1(c), Customer may request the scheduling of a Daily Gas Quantity below the Keep Cool Quantity (including down to zero Gas), and Service Provider shall accept such request for scheduling so long as:

- (a) Service Provider determines that such scheduling will not adversely affect its ability to make available any Scheduled Loading Quantities; and
- (b) Unless otherwise agreed by Service Provider in accepting the relevant Scheduled Loading Quantity in accordance with the scheduling procedures set forth in Article 6, such request will not result in the shutdown of a Train.

Any acceptance by Service Provider that deviates from the foregoing will be at its sole discretion.

### 3.3 Delivery of LNG

3.3.1 Delivery of LNG to Customer. All deliveries of LNG by Service Provider shall be made to Customer on FOB (Incoterms 2010), at the LNG Facility. Delivery shall occur when the LNG passes the last flange connection of the delivery system joined to the inlet manifold of the applicable Transport Truck (the “**LNG Delivery Point**”).

3.3.2 Obligations of Customer Regarding Delivery.

- (a) Customer shall, in accordance with this Agreement, Applicable Laws and applicable industry standards, provide, or cause to be provided, transportation from the LNG Delivery Point of all quantities of LNG properly made available hereunder to Customer. Customer shall cause each Transport Truck to comply with, and to be fully equipped, supplied, operated and maintained to comply with, all applicable industry standards and Applicable Laws, including those that relate to safety, environmental

protection, and all permits that are required for the transportation and loading of LNG at the LNG Delivery Point.

- (b) Upon the arrival of any Transport Truck at the LNG Facility, Service Provider shall have a right to inspect any such Transport Truck as Service Provider may reasonably consider necessary to ascertain whether the Transport Truck complies with this Agreement, including the Services Manual. No inspection (or lack thereof) of a Transport Truck hereunder shall: (i) modify or amend Customer's obligations, representations, warranties and covenants hereunder, or (ii) constitute an acceptance or waiver by Service Provider of Customer's obligations hereunder.
- (c) Service Provider shall have the right to reject any Transport Truck if, after consultation with Customer and a reasonable opportunity for Customer to cure any deficiency, such Transport Truck does not comply with the provisions of this Agreement or the Services Manual, including if such Transport Truck contains or may contain any contaminants that may be harmful to Service Provider's operations or the LNG to be loaded hereunder, or if the driver or operator of such Transport Truck is unfamiliar with truck loading operations or lacks proper certifications; *provided that* neither the exercise nor the non-exercise of such right shall reduce the responsibility of Customer to Service Provider in respect of such Transport Truck and its operation, nor increase Service Provider's responsibilities to Customer or a Third Party for the same.

3.3.3 Services Manual; Delivery Procedures; Access Agreement. In connection with the Services to be performed under this Agreement, the Parties have developed (a) a services manual substantially in the form set forth as Exhibit B (as may be amended from time to time, the "**Services Manual**") addressing reasonable industry standard operating and implementation procedures for trucking and loading activities at the LNG Facility, including Transport Truck attributes and specifications, inspection procedures, insurance requirements, certification requirements, HSE policies that must be adhered to by the Transporter's employees or independent contractors and delivery procedures for the deliveries of LNG pursuant to this Agreement and (b) a terminal access agreement substantially in the form set forth as Exhibit C (as may be amended from time to time, each, an "**Access Agreement**") that must be entered into by the relevant Transporter with Service Provider, allocating risk of and responsibility for loss and damage resulting from certain events at the LNG Facility. Customer shall comply with, and shall cause any Transporter to comply with, such Services Manual and such Access Agreement. Service Provider shall not make any material amendments or modifications to the Services Manual or the form of Access Agreement without the prior written consent of Customer, such consent not to be unreasonably withheld, conditioned or delayed.

#### 3.4 Failure to Provide Services

3.4.1 Services Unavailability. Subject to Clause 7.4 and Clause 3.4.6(a), if (a) on any Gas Day, Service Provider fails to take delivery of at least ninety-five percent (95%) of the Daily Gas Quantity at the Gas Delivery Point in accordance with the Gas Delivery Schedule or (b) during any Scheduled Loading Window, Service



Provider fails to make LNG available for lifting at least ninety-five percent (95%) of the Scheduled Loading Quantity during the relevant Scheduled Loading Window or otherwise in accordance with the Ninety Day Schedule and this Agreement (any such failure described in clause (a) or clause (b) above, a “**Services Unavailability**”, and such quantity of LNG affected by a Services Unavailability on any Gas Day or during any Scheduled Loading Window, as applicable, the “**Shortfall Quantities**”), the provisions of Clauses 3.4.2 through 3.4.6 shall apply, and the provisions of Clause 3.4.5 shall provide the exclusive remedies available to Customer for any such Services Unavailability. Notwithstanding the foregoing and for purposes of clarity, no Services Unavailability shall be deemed to occur hereunder if the relevant failure by Service Provider to take delivery of Gas or make LNG available for lifting occurs as a result of (i) Customer’s Failure to Deliver or Failure to Lift, (ii) a Transporter failing to enter into an Access Agreement or otherwise failing to comply with the Services Manual, (iii) a Transport Truck failing to comply with this Agreement or the Services Manual or (iv) Service Provider exercising its suspension rights in accordance with Clause 13.5.2.

3.4.2 Notice. In the event of any actual or expected Services Unavailability, Service Provider shall give prompt Notice thereof to Customer stating the estimated period during which performance may be prevented, interfered with, or delayed, including, to the extent known or ascertainable, the estimated extent of such Services Unavailability, including the quantity of Gas or LNG (in Mcf, MMBtu and/or Gallons) not received or lifted (as applicable), and, if applicable, the MVC Reduction Credit that would apply to reduce the Minimum Volume Commitment for the applicable Contract Year.

3.4.3 Services Unavailability Due to Force Majeure. During any Contract Year,

- (a) if, in the case of Contract Year 0 or Contract Year 1, Service Provider is not able to provide the Services under this Agreement due to one or more Services Unavailability periods due to Force Majeure that extend, in the aggregate, for longer than twenty (20) days, or
- (b) if, after Contract Year 1, Service Provider is not able to provide the Services under this Agreement due to one or more Services Unavailability periods due to Force Majeure that extend, in the aggregate, for longer than ten (10) days,

then, in either case, Customer shall be entitled to an MVC Reduction Credit that would apply to reduce the Minimum Volume Commitment for the applicable Contract Year in accordance with and subject to the terms of Clause 3.4.5(a). The thresholds set forth in this Clause 3.4.3 shall be in addition to the thresholds set forth in Clause 3.4.4.

3.4.4 Services Unavailability Not Due to Force Majeure. During any Contract Year,

- (a) if, in the case of Contract Year 0 or Contract Year 1, Service Provider is not able to provide the Services under this Agreement due to one or more Services Unavailability periods not due to Force Majeure, including

pursuant to Clause 7.4 and Clause 7.5, that extend, in the aggregate, for longer than ten (10) days, or

- (b) if, after Contract Year 1, Service Provider is not able to provide the Services under this Agreement due to one or more Services Unavailability periods not due to Force Majeure, including pursuant to Clause 7.4 and Clause 7.5, that extend, in the aggregate, for longer than five (5) days,

then, in either case, Customer shall be entitled to (i) an MVC Reduction Credit that would apply to reduce the Minimum Volume Commitment for the applicable Contract Year in accordance with and subject to the terms of Clause 3.4.5(a), and (ii) the additional remedies in accordance with and subject to the terms of Clause 3.4.5(c). The thresholds set forth in this Clause 3.4.4 shall be in addition to the thresholds set forth in Clause 3.4.3.

#### 3.4.5 Remedies for Services Unavailability; Determination of MVC Reduction Credit.

- (a) Upon the occurrence of a Services Unavailability giving rise to an MVC Reduction Credit in accordance with this Clause 3.4, the Parties shall determine in good faith the amount of the MVC Reduction Credit based upon, among other things, (i) the duration of the Services Unavailability, (ii) the Daily Gas Quantities, the Scheduled Loading Windows and the Scheduled Loading Quantities impacted by such Services Unavailability, (iii) the aggregate amount of relevant Shortfall Quantities, (iv) the amount of any makeup LNG provided by Service Provider for the relevant Shortfall Quantities as described in Clause 3.4.6(a) and (v) the amount of LNG actually lifted by Customer during the relevant Contract Year, it being acknowledged and agreed that the ultimate determination of the relevant MVC Reduction Credit may not be determined until following the end of the relevant Contract Year and which MVC Reduction Credit shall not in any event exceed an amount equal to the Volume Deficiency that would have applied in such Contract Year but for the application of this Clause 3.4.5(a). Any dispute between the Parties with respect to the amount of the relevant MVC Reduction Credit shall be resolved in accordance with the procedures set forth in Clause 21.3. For purposes of clarity, if, during any Contract Year, Customer lifts an amount of LNG equal to or in excess of its MVC for such Contract Year, then it will not be entitled to any MVC Reduction Credit in respect of such Contract Year or any other Contract Year hereof with respect to the relevant Services Unavailability(ies) occurring during such Contract Year.
- (b) Upon the occurrence of any Services Unavailability, without limitation of Service Provider's ability to provide makeup LNG for the relevant Shortfall Quantity(ies) as described in Clause 3.4.6(a) but subject to the remainder of this Clause 3.4.5(b), Customer shall use commercially reasonable efforts to obtain replacement LNG (and/or an equivalent amount of Gas) in respect of the relevant Shortfall Quantity(ies) resulting from such Services Unavailability, at an all-in delivery price and on such other terms that are reasonable for the State of Alaska under the circumstances (e.g., consistent with the amount of notice provided by the Service Provider, the number of Inventory Days of LNG or Gas

inventories of Customer and the immediacy of the Customer's LNG or Gas consumption needs, the Shortfall Quantities involved, and the anticipated length of the Services Unavailability, in each case, as determined reasonably and in good faith by Customer). The price at which Customer is able to obtain replacement LNG (and/or an equivalent amount of Gas) for the relevant Shortfall Quantity(ies) shall be referred to as the “**Cover Price**” for such Shortfall Quantity(ies), and, in all cases, the Cover Price shall be the all-in delivery price realized by Customer for such replacement LNG or Gas, which shall include any and all costs or expenses paid or incurred by or on behalf of Customer for transportation, storage, regassification, treating or processing of such replacement LNG or Gas (so long as, with respect to treating or processing costs, the relevant replacement LNG or Gas would otherwise meet or exceed the specifications under this Agreement). Any dispute between the Parties with respect to the amount of any relevant Cover Price and the reasonableness thereof shall be resolved in accordance with the procedures set forth in Clause 21.3. Notwithstanding the foregoing or any other provision hereof to the contrary, Customer shall act reasonably and in good faith in determining the timing, manner and volume of replacement LNG or Gas that it seeks to obtain and other cover actions that it takes under this Clause 3.4.5(b) in respect of any Services Unavailability, taking into consideration such factors as would a reasonably prudent operator of a gas distribution network of the type operated by Customer, including based on its existing inventory and current and anticipated utilization of, and storage capabilities with respect to, LNG or Gas, it being understood and agreed that in no event shall Customer obtain replacement LNG or Gas hereunder solely for convenience or otherwise in an unreasonable manner. Without limitation of the foregoing, Customer shall not obtain any relevant replacement LNG or Gas hereunder as cover in respect of any period during which it has and will be able to maintain at least ten (10) Inventory Days’ worth of LNG or Gas inventory in storage. In addition, if Customer or any of its Affiliates operates the Titan LNG project or another similar LNG production facility at any time, then in no event will Customer cover from a source other than such facility to the extent such other source is able to provide LNG, taking into consideration other contractual commitments, gas availability and operational status and would result in a Cover Price that would be in excess of that available from such facility. Further, if, in making any reasonable determination of cover under this Clause 3.4.5(b), Customer determines that it does not need to obtain any replacement LNG or Gas or otherwise cover the relevant Services Unavailability, then, notwithstanding anything herein to the contrary, no Services Unavailability shall be deemed to have occurred for purposes of this Clause 3.4.5(b) or Clause 3.4.5(c) and Customer shall not be entitled to any remedy under such Clauses in respect thereof. Customer shall keep Service Provider reasonably informed in regards to its efforts to cover and obtain replacement LNG or Gas and shall provide Service Provider with such documents and other information as may be reasonably requested by Service Provider in respect thereof, including a summary of relevant Inventory Days as of any applicable determination time and such other information as may be necessary or appropriate to allow Service

Provider to assess the reasonableness of any cover efforts made by Customer.

(c) If a Services Unavailability occurs during any Contract Year following Contract Year 1 and such Services Unavailability is caused by an event other than Force Majeure and would give rise to a remedy under this Clause 3.4.5(c) in accordance with Clause 3.4.4, then, in addition to the MVC Reduction Credit described in Clause 3.4.5(a) in respect of such Services Unavailability (but subject to the provisions of this Clause 3.4.5(c)), Customer shall be entitled to the following remedies:

- (i) If Customer is able to procure replacement LNG or Gas as provided in Clause 3.4.5(b) (and subject to the terms thereof), then, with respect to such replacement LNG or Gas, Service Provider shall be responsible for an amount equal to the cost differential between (x) the Cover Price for such replacement LNG or Gas and (y) the all-in delivery price that Customer would have paid for the relevant Shortfall Quantity(ies) under this Agreement (which shall likewise be deemed to include relevant costs and expenses that would have been paid by or on behalf of Customer for transportation, storage, regassification, treating or processing of such Shortfall Quantity(ies) downstream of the LNG Delivery Point); and
- (ii) If Customer is unable to obtain replacement LNG or Gas within thirty (30) days after the relevant Services Unavailability (notwithstanding utilizing commercially reasonable efforts as provided in Clause 3.4.5(b)), then Service Provider shall pay to Customer, as liquidated damages, an amount equal to 2 times the then applicable Base Service Fee for any Shortfall Quantities that Customer is unable to cover. For the avoidance of doubt, without limitation of Customer's obligations under Clause 3.4.5(b), the liquidated damages amount described above shall not constitute a cap on what Customer may pay for replacement LNG or Gas in respect of any Shortfall Quantities.; *provided* that, as provided herein, Service Provider shall only be responsible for the relevant Cover Price thereof;

*provided, however,* that, notwithstanding the foregoing or any other provision hereof to the contrary, with respect to each Contract Year, in no event shall Service Provider's liability under this Clause 3.4.5(c) exceed an amount equal to twenty-five percent (25%) of the amount equal to (x) the MVC for such Contract Year *multiplied by* (y) the Base Service Fee.

(d) Notwithstanding anything herein to the contrary and for purposes of clarity: (i) the remedies described in Clause 3.4.5(c) shall not apply with respect to any Services Unavailability that (x) occurs prior to the end of Contract Year 1 or (y) is caused by an event constituting Force Majeure, it being understood and agreed that the MVC Reduction Credit contemplated by Clause 3.4.3 in respect of any such Services Unavailability shall be Customer's sole and exclusive remedy therefor;

and (ii) the remedies available to Customer under this Clause 3.4.5 shall apply only with respect to Shortfall Quantities that Customer has validly scheduled (and which have been accepted by Service Provider) as provided herein, and, if Customer has not nominated any Daily Gas Quantities and/or Scheduled Loading Quantities in respect of any Gas Day or Scheduled Loading Window, as applicable, that would otherwise fall within a Services Unavailability period, then such Gas Day and/or Scheduled Loading Window shall be deemed to not constitute a Services Unavailability for any purposes hereunder and Customer shall not be entitled to any remedies hereunder in respect thereof.

- (e) Without limitation of Clause 3.4.6 or any other express remedies provided hereunder, the remedies set forth in this Clause 3.4.5 shall be Customer's sole and exclusive remedy for any Services Unavailability.

3.4.6 Actions to Address Services Unavailability. To address the expected effects of any Services Unavailability, Service Provider shall promptly consult with Customer with regard to the appropriate course of action to be taken under the circumstances and both Parties shall use commercially reasonable efforts to minimize the effects of such Services Unavailability, which may include one or more of the following actions:

- (a) revising the scheduling of Gas or LNG deliveries for one or more Gas Days or Scheduled Loading Windows, respectively, to minimize the adverse consequence of such Services Unavailability; *provided that* for any Services Unavailability on a Gas Day or Scheduled Loading Window that results in a Shortfall Quantity, if Service Provider is able to schedule for lifting and Customer is able to lift (whether in a new Scheduled Loading Window or including and aggregating such quantities with existing Scheduled Loading Quantities in existing Scheduled Loading Windows) a quantity of makeup LNG up to the Shortfall Quantity that Customer has not already covered in accordance with Clause 3.4.5 (and subject to the terms thereof), the occurrence of a Services Unavailability on such Gas Day or Scheduled Loading Window shall be deemed to have not occurred for purposes of aggregating periods of Services Unavailability in accordance with Clause 3.4.3 or Clause 3.4.4 and the remedies in Clause 3.4.5;
- (b) adjusting or cancelling the deliveries of Gas or LNG for one or more affected Gas Days or Scheduled Loading Windows, respectively; or
- (c) taking other actions a Reasonable and Prudent Operator would take under the circumstances.

In addressing any Services Unavailability pursuant to this Clause 3.4.6: (i) if Service Provider elects to cause Customer to cancel one or more Scheduled Loading Windows, Service Provider shall provide Customer with Notice confirming the quantity of Gas or LNG (in Mcf and/or MMBtu) not received or lifted (as applicable) and reasonable supporting information as may be requested by Customer; and (ii) without limitation of the foregoing provisions of this Clause 3.4.6, Customer and Service Provider shall cooperate with each other in good faith

and use commercially reasonable efforts to adjust nominations hereunder in respect of any relevant Daily Gas Quantities or Scheduled Loading Quantities in order to minimize such Services Unavailability and any adverse consequences thereof, including in connection with scheduling the lifting of any makeup LNG as contemplated by Clause 3.4.6(a).

### **3.5 Customer's Delivery Failure; Failure to Lift**

3.5.1 Generally. Customer's failure to deliver the Daily Gas Quantity at the Gas Delivery Point in respect of any Gas Day (other than due to Services Unavailability) shall constitute a "**Failure to Deliver**", and Customer's failure to load a Scheduled Loading Quantity and transport such quantity from the LNG Facility in respect of any Scheduled Loading Window (other than due to Services Unavailability) shall constitute a "**Failure to Lift**". Notwithstanding the foregoing, (i) no Failure to Deliver shall arise in respect of any Gas Day if at least ninety-five percent (95%) of the relevant Daily Gas Quantity is delivered at the Gas Delivery Point during such Gas Day, and (ii) no Failure to Lift shall arise in respect of any Scheduled Loading Window if at least ninety-five percent (95%) of the relevant Scheduled Loading Quantity is lifted during such Scheduled Loading Window.

#### **3.5.2 Effect.**

- (a) In the event of any actual or expected Failure to Deliver or Failure to Lift, Customer shall:
  - (i) promptly give Notice to Service Provider stating the estimated period of the Failure to Deliver or Failure to Lift, as applicable, and keep Service Provider reasonably informed of any changes to such estimate;
  - (ii) cooperate with Service Provider to revise the scheduling of Gas or LNG deliveries for one or more Gas Days or Scheduled Loading Windows, respectively, to make up for and minimize the adverse consequence of such failures; and
  - (iii) if such failure results in a shutdown of a Train, pay to Service Provider an amount equal to \$12,500 as reimbursement for all incremental costs and expenses paid or incurred to restart such Train, which reimbursement shall constitute Service Provider's sole remedy with respect to a Failure to Deliver or Failure to Lift. For clarity, the foregoing shall not be deemed to constitute a waiver of Customer's obligations to pay any and all Deficiency Fees or other payments as and when due hereunder and Service Provider shall be entitled to the same as provided herein.
- (b) Without limitation of the foregoing or the provisions of Clause 3.5.3, if one or more Failures to Deliver or Failures to Lift occur as a result of one or more Downstream Force Majeure Events or Producer FM Events affecting Customer and such Failures to Deliver or Failures to Lift affect more than ten (10) Gas Days or Scheduled Loading Windows, as

applicable, during any Contract Year, then Customer shall be entitled to an MVC Reduction Credit that would apply to reduce the Minimum Volume Commitment for the applicable Contract Year, which shall be subject to the following:

- (i) the Parties shall determine such MVC Reduction Credit in accordance with the terms of Clause 3.4.5(a), which shall apply *mutatis mutandis* to the relevant Failures to Deliver or Failures to Lift;
  - (ii) the MVC Reduction Credit shall not take into account the initial ten (10) Gas Days or Scheduled Loading Windows affected by the relevant Force Majeure event;
  - (iii) the aggregate amount of MVC Reduction Credits to which Customer shall be entitled under this Clause 3.5.2(b) in respect of Downstream Force Majeure Events throughout the Term of this Agreement shall be limited to a maximum of 270 total Gas Days or Scheduled Loading Windows, it being acknowledged and agreed that the foregoing limitation (i.e., the 270-day cap on MVC Reduction Credits) shall not apply with respect to Producer FM Events; and
  - (iv) any MVC Reduction Credit received pursuant to this Clause 3.5.2(b) shall serve to extend the Term of this Agreement as provided in Clause 5.2.3, Clause 5.2.4 or Clause 16.1(g)(iv), as applicable; *provided* that, with respect to MVC Reduction Credits in respect of Producer FM Events, such MVC Reduction Credits shall only extend the Term of this Agreement as described in this Clause 3.5.2(b)(iv) to the extent such MVC Reduction Credits relate to one or more periods constituting Force Majeure Extension Periods (as defined in the Gas Sales Agreement as in effect as of the Effective Date).
- (c) Notwithstanding anything herein to the contrary and for purposes of clarity, the relief expressly provided in Clause 3.5.2(b) shall constitute Customer's sole relief in respect of a relevant Force Majeure event, and the foregoing provisions of Clause 3.5.2(b) shall not apply with respect to any Failures to Deliver or Failures to Lift caused by any event other than a Downstream Force Majeure Event or Producer FM Event affecting Customer (i.e., the foregoing provisions of Clause 3.5.2(b) shall not apply with respect to a Producer At-Fault Event) and Customer shall not be relieved of any obligations to pay Deficiency Fees in respect of any such other events. In addition, and for purposes of clarity, if, during any Contract Year, Customer lifts an amount of LNG equal to or in excess of its MVC for such Contract Year, then it will not be entitled to any MVC Reduction Credit in respect of such Contract Year or any other Contract Year hereof.

(d) For purposes of illustration and not limitation, set forth below are certain examples of Force Majeure events and their respective treatment under Clause 3.5.2(b) and 3.5.2(c):

- (i) If one or more events occur that result in a shut-down of Customer's storage and distribution facilities and such events constitute Force Majeure events under clause (ii) of Clause 14.1.1(f), then such events shall be deemed to constitute Downstream Force Majeure Events hereunder. If such events persist for more than ten (10) Scheduled Loading Windows and collectively limit Customer's ability to lift LNG from the LNG Delivery Point for 540 total additional Scheduled Loading Windows, then the following result will arise under this Clause 3.5.2, subject to the terms thereof: (A) Customer will receive MVC Reduction Credits corresponding to the Scheduled Loading Quantities for the initial 270 additional Scheduled Loading Windows affected by such events, which MVC Reduction Credits will be applied as described in Clause 3.5.2(b)(iv) above; and (B) Customer will not receive MVC Reduction Credits or any other relief hereunder in respect of any other Scheduled Loading Windows affected by such events.
- (ii) If one or more events occur that result in a shut-down of the Upstream Facilities as a result of a Force Majeure Event (as defined in the Gas Sales Agreement as of the Effective Date), then such events shall be deemed to constitute Producer FM Events hereunder. If such events persist for more than ten (10) Scheduled Loading Windows and collectively limit Customer's ability to deliver Gas for 540 total additional Gas Days, then, subject to the terms hereof, Customer will receive MVC Reduction Credits corresponding to the Daily Gas Quantities for such 540 additional Gas Days affected by such events, which MVC Reduction Credits will be applied as described in Clause 3.5.2(b)(iv) above.
- (iii) If one or more events occur that result in Producer failing to deliver Gas to Customer as nominated under the Gas Sales Agreement and such events constitute Force Majeure events under Clause 14.1.1(j) but do not constitute Producer FM Events, then such events will be deemed to constitute Producer At-Fault Events hereunder. Customer shall not be entitled to any MVC Reduction Credits or other relief hereunder in respect of such Producer At-Fault Events (irrespective of the duration thereof), but the Parties anticipate that Customer shall be entitled to recovery under the Gas Sales Agreement in respect of any Deficiency Fees owed hereunder arising from such events.

3.5.3 Actions to Address Failure to Deliver or Failure to Lift. To address the expected effects of any Failure to Deliver or Failure to Lift, Service Provider may take one or more of the following actions:



- (a) consult with Customer to revise the scheduling of Gas or LNG deliveries for one or more Gas Days or Scheduled Loading Windows, respectively, to minimize the adverse consequence of such Failure to Deliver or Failure to Lift;
- (b) direct Customer to adjust or cancel the deliveries of Gas or LNG for one or more affected Gas Days or Scheduled Loading Windows, respectively; or
- (c) take any other actions a Reasonable and Prudent Operator would take under the circumstances.

In addressing any Failure to Deliver or Failure to Lift pursuant to this Clause 3.5.3, if Service Provider elects to cause Customer to cancel one or more Scheduled Loading Windows, Service Provider shall provide Customer with Notice confirming the quantity of Gas or LNG (in Mcf and/or MMBtu) not received or lifted (as applicable) and reasonable supporting information as may be requested by Customer. The foregoing provisions of this Clause 3.5.3 shall not be deemed to limit or restrict Service Provider from exercising its rights under Clause 3.5.4 below.

- 3.5.4 Service Provider Options re Failure to Deliver or Failure to Lift. Notwithstanding anything herein to the contrary but without limitation of the other terms and provisions of this Clause 3.5, if one or more Failures to Deliver or Failures to Lift occur, whether as a result of a Force Majeure event or otherwise, and such Failures to Deliver or Failures to Lift could reasonably be expected to affect more than five (5) consecutive Gas Days or Scheduled Loading Windows, then Service Provider shall be permitted to utilize all or any portion of the capacity of the LNG Facility that is available as a result of such Failures to Deliver or Failures to Lift to provide liquefaction services and other Services to one or more other Persons during such periods, which may be provided on such terms as Service Provider shall determine in its sole discretion. Service Provider shall provide Customer with reasonable Notice if it does so utilize any capacity of the LNG Facility and Service Provider and Customer shall use their respective good faith efforts to cooperate with one another and coordinate to permit Service Provider to exercise its rights under this Clause 3.5.4.

## 4. SERVICES FEES

### 4.1 Generally

Commencing on the Commencement Date until termination of this Agreement, Customer shall, as full compensation for the performance by Service Provider of its obligations under this Agreement, provide the Retainage in kind and pay to Service Provider the Service Fees as and when due under this Agreement.

### 4.2 Service Fees

- 4.2.1 The service fees payable by Customer to Service Provider under this Agreement (“**Service Fees**”) shall be determined and adjusted from time to time in accordance with the provisions of this Clause 4.2 and Schedule E. The Service Fees shall

consist of (i) the Base Service Fee applied to the volume in Gallons of LNG delivered to Customer that constitute MVC Purchased Volumes, (ii) the Excess Service Fee applied to the volume in Gallons of LNG delivered to Customer that constitute Excess Volumes, and (iii) the Deficiency Fee applied to Deficiency Volumes as determined at the end of each Contract Year.

- 4.2.2 Regulations proposed by Authorized Authorities may cause Service Provider to incur additional costs or expenses unavoidably necessary to be in compliance during the Term with changes in Applicable Laws or LNG Terminal Standards not known, anticipated or reasonably foreseeable on the Effective Date, including costs or expenses relating to: (i) changing methods of operations to comply with changes in laws and regulations, including LNG Terminal Standards, not known, anticipated or reasonably foreseeable on the Effective Date, (ii) changes in, or the implementation of new, regulatory requirements or LNG Terminal Standards with respect to the operation of the LNG Facility, (iii) implementing the conditions of any modification to a permit necessary to operate the LNG Facility or to perform a transfer of LNG from the LNG Facilities to Transport Trucks, and (iv) any costs, expenses and fees required to improve the safety or efficiency of the LNG Facility (costs and expenses arising from such requirements are hereinafter referred to as “**Compliance Costs**”). If Service Provider is required to expend Compliance Costs in excess of \$50,000 in any Contract Year, Service Provider shall notify Customer of such Compliance Costs, providing documentary support for such Compliance Costs, and Customer shall be responsible for reimbursing Service Provider for fifty percent (50%) of the costs in excess of such threshold through an adjustment in the Base Service Fee.
- 4.2.3 It is agreed that if at any time the publisher of an index or price reference referred to in Schedule E or this Agreement discontinues publishing such index or price reference or the index or price reference becomes unavailable, either permanently or temporarily, for any reason, , then Service Provider shall be entitled to apply a substitute index or price reference, either on a temporary or permanent basis (as applicable) provided that Customer will receive Notice of such substitution and such substitute index or price reference is approved in writing by Customer (such approval not to be unreasonably withheld), provided further that, in the event the Parties are unable to agree within fifteen (15) days from the date of Service Provider’s Notice, then either Party may refer the selection of the substitute index or price reference to an Expert in accordance with Clause 21.3.

#### **4.3 Retainage**

Subject to this Clause 4.3, Service Provider shall be entitled to Retainage from Customer’s Gas or LNG as provided in Clause 8.4; *provided that* solely for purposes of this Clause 4.3, Service Provider shall be deemed to have failed to satisfy the standard of a Reasonable and Prudent Operator if the quantity of Gas or LNG either consumed as Retainage, lost or destroyed exceeds fifty percent (50%) of Gas scheduled to be taken or LNG scheduled to be lifted, as applicable, for a relevant month. For clarity, any carbon dioxide or NGLs separated or extracted from Gas shall not be deemed to constitute Retainage or to have been lost or destroyed for purposes hereof. If the quantity of Gas or LNG either consumed as Retainage, lost or destroyed exceeds that expected from normal, stable operations (excluding a circumstance where Customer schedules no deliveries pursuant to Clause 3.2.2) due to Service Provider failing to satisfy the foregoing standard of a Reasonable and

Prudent Operator, then for any given month in which Service Provider so failed to satisfy the requirements of a Reasonable and Prudent Operator, Customer shall be entitled to receive at the end of applicable Contract Year, as Customer's sole and exclusive remedy, a credit ("**Excess Retainage Credit**") equal to the product of (i) the quantity of excess Gas or LNG that was either consumed as Retainage, lost or destroyed resulting from Service Provider failing to satisfy the standard of a Reasonable and Prudent Operator during the relevant month; *multiplied by* (ii) the relevant price set forth in the Gas Sales Agreement for the month in question. Within five (5) days after the end of each month, Service Provider shall provide Customer with a Notice detailing the aggregate Excess Retainage Credit for the preceding month (if any). Within thirty (30) days after the end of each Contract Year, Service Provider shall provide Customer with a Notice detailing the aggregate Excess Retainage Credit for the preceding Contract Year and an analysis of Excess Retainage Credit arising from each month during such year. Any Excess Retainage Credit for the preceding Contract Year shall be applied as an offset to the Services Fee paid to Service Provider for the following year.

## 5. TERM

### 5.1 Primary Term

This Agreement shall be effective from the Effective Date and shall continue in full force and effect until the end of the twentieth (20<sup>th</sup>) Contract Year (i.e., Contract Year 20) (the "**Primary Term**"), unless (a) terminated earlier in accordance with the provisions of this Agreement or (b) extended in accordance with Clause 5.2 (such extension, if any, together with the Primary Term, being referred to herein as the "**Term**").

### 5.2 Extension of Term

5.2.1 The Primary Term (or the Term as extended pursuant to Clause 5.2.2) shall be renewed automatically for additional three (3)-Contract Year periods thereafter on an evergreen basis, unless and until either Party gives Notice to the other Party at least three (3) years before the expiration of the Primary Term or any renewal period thereof of its desire to terminate this Agreement.

5.2.2 Notwithstanding the extension of the Term in accordance with Clause 5.2.1, upon Notice by Customer to Service Provider no later than three (3) years prior to (i) the expiration of the Primary Term or (ii) a renewal period in accordance with this Clause 5.2.2, Customer may extend the Term (x) for a period of five (5) Contract Years beyond the Primary Term and (y) for a period of five (5) Contract Years beyond such renewal period pursuant to clause (x); *provided, however*, in each case, that Service Provider may reject such extension of the Term, by providing written notice thereof to Customer within one hundred eighty (180) days of its receipt of notice of such extension, if such extension is not economical for Service Provider (resulting in cumulative negative cash flows during the extension period for at least three of the five years thereof), as reasonably determined by Service Provider acting in good faith, based on a forecast of additional expenditures (excluding indirect general and administrative expenses) as a result of necessary replacement of equipment and facilities at the LNG Facility, regulatory or compliance requirements, significant maintenance cycles or incremental capital required to support continued operations during the extension period. For the avoidance doubt, any option to extend the Term in accordance with this Clause

5.2.2 shall expire and cease to be available to Customer following an extension of the Term in accordance with Clause 5.2.1.

- 5.2.3 If the Term has not otherwise been extended pursuant to Clause 5.2.1 or Clause 5.2.2 and Customer has received one or more MVC Reduction Credits pursuant to Clause 3.5.2(b) that are available for application as provided in Clause 3.5.2(b)(iv), then, upon Notice by Service Provider to Customer no later than 180 days prior to the expiration of the Term (or such shorter period as may be applicable should the relevant MVC Reduction Credit be received during such 180-day period), Service Provider may extend the Term for a period of up to one (1) additional Contract Year, during which time, unless otherwise agreed by the Parties, the Minimum Volume Commitment shall be deemed to be the aggregate amount of the relevant MVC Reduction Credits and which shall be applied on a month-by-month basis consistent with the Annual Delivery Program for then-current Contract Year.
- 5.2.4 Subject to Clause 5.2.3, following the Primary Term, unless otherwise agreed to in writing between Service Provider and Customer, the Minimum Volume Commitment during each Contract Year of the renewal period of the Term shall be equivalent to the final Contract Year of the Primary Term as set forth in Schedule B-1.

### 5.3 Commencement Date

- 5.3.1 The “**Commencement Date**”, which shall fall on the first day of a month, shall be the date notified by Service Provider to Customer that the LNG Facility is capable of receiving Gas at the Gas Delivery Point and producing and delivering LNG at the LNG Delivery Point in accordance with the LNG Specifications at quantities in line with the design capacity thereof as necessary to enable Service Provider to perform its obligations under this Agreement. Service Provider will provide Customer at least one hundred eighty (180) days prior written notice of the Commencement Date.
- 5.3.2 Service Provider shall use commercially reasonable efforts to cause the Commencement Date to occur on or before October 1, 2024 (the “**Target Commencement Date**”). In addition to Service Provider’s obligations under Clause 7.3, as the completion of the LNG Facility progresses, Service Provider will keep Customer advised of any changes to the expected Commencement Date. If an event of Force Majeure occurs that has the effect of impeding Service Provider’s ability to complete construction and commissioning of the LNG Facility, then, upon the cessation of such event of Force Majeure, and upon notice from Service Provider to Customer, the Target Commencement Date shall be extended day-for-day for each day of delay resulting from such event of Force Majeure.
- 5.3.3 If the Commencement Date has not taken place on or before the date that is one hundred eighty (180) days following the Target Commencement Date (as such date may be extended in accordance with Clause 5.3.2) (the “**Delay Liquidated Damages Date**”), then Service Provider shall pay, as liquidated damages and not as a penalty, delay damages (“**Delay Liquidated Damages**”) to Customer in the amount of Twenty Thousand US Dollars (\$20,000.00) per day, for each day after the Delay Liquidated Damages Date until the Commencement Date occurs;

*provided, however, that notwithstanding the foregoing, in no event shall Customer be entitled to payment in the aggregate of Delay Liquidated Damages in an amount in excess of Five Million US Dollars (\$5,000,000) (the “**Delay Liquidated Damages Cap**”). The Delay Liquidated Damages shall be Customer’s sole and exclusive remedy for any delay by Service Provider to achieve the Commencement Date by the Target Commencement Date. At Service Provider’s election by Notice to Customer, in lieu of paying the Delay Liquidated Damages to Customer in a lump sum amount, Service Provider may apply up to fifty percent (50%) of the amount of Delay Liquidated Damages as a credit and offset against amounts owed from Customer under this Agreement, such credit to apply in equal monthly instalments beginning Contract Year 0 until such credit is exhausted.*

#### **5.4 Commissioning**

Customer shall have no obligation to provide Gas for commission tests of the LNG Facility or similar activities or receive LNG produced by the LNG Facility during such commissioning period, other than pursuant to any separate written agreement between the Parties.

### **6. SCHEDULING OF SERVICES**

#### **6.1 The Annual Delivery Program**

6.1.1 Customer Annual Notice. No later than ninety (90) days prior to the start of each Contract Year, Customer shall advise Service Provider in writing of:

- (a) the quantity of LNG Customer anticipates lifting during each month of such Contract Year, subject to the Minimum Volume Commitment and the Maximum Daily Gas Quantity;
- (b) the projected Scheduled Loading Windows during each month and the projected Scheduled Loading Quantity during each such window; and
- (c) any other information that may affect scheduling.

6.1.2 Annual Delivery Program. In addition to the provisions set forth in Clause 6.1.1, Service Provider and Customer shall, no later than sixty (60) days prior to the start of each Contract Year, consult together regarding a schedule for such Contract Year, and by no later than thirty (30) days prior to the start of each Contract Year, Service Provider shall issue a projected programming schedule for quantities to be lifted hereunder during such Contract Year (the “**Annual Delivery Program**”). Such Annual Delivery Program shall take into consideration the following: (i) Customer’s forecast pursuant to Clause 6.1.1; (ii) operational storage available for Customer’s Inventory; (iii) the number of Transport Trucks available for lifting LNG and the unloading rates at the LNG Delivery Point; (iv) the Minimum Volume Commitment and the Maximum Daily Gas Quantity; (v) to the maximum extent practicable and unless otherwise accepted by Service Provider, the desire for ratable deliveries of LNG at the LNG Delivery Point and receipt of Gas at the Gas Delivery Point, including satisfying the Minimum Lifting Requirement and the minimum amount of LNG necessary to maintain the Keep Cool Quantity; (vi) any Scheduled Maintenance and (vii) Service Provider’s and Customer’s

contractual obligations to Third Parties utilizing LNG produced at the LNG Facility. Notwithstanding anything herein to the contrary, no Annual Delivery Program schedule may be implemented in respect of any Contract Year that requires Customer to lift more LNG in such Contract Year than the greater of (x) the Minimum Volume Commitment for such Contract Year and (y) ninety percent (90%) of the aggregate amount nominated by Customer in respect of such Contract Year. Without limitation of the foregoing provisions of this Clause 6.1, the Parties recognize that the LNG Facility will be required to be shut down for extended shut down periods during each Contract Year as a result of timing matters arising as a result of the Minimum Lifting Requirement in relation to the Customer's anticipated Minimum Volume Commitment.

- 6.1.3 Planning Purposes. Such Annual Delivery Program and the Ninety Day Schedules referred to below (and any revisions thereto) (a) shall detail the projected Scheduled Loading Window and anticipated Scheduled Loading Quantity during each such Scheduled Loading Window during each month of the relevant Contract Year, and (b) are intended to assist the Parties in planning their respective operations during the period involved.

## 6.2 Ninety Day Schedule

- 6.2.1 Notice of Ninety Day Schedule. At least twenty (20) days prior to the first day of each Month in a Contract Year, Customer shall deliver to Service Provider a ninety (90) day estimated plan (the "**Ninety Day Schedule**") for the quantity of LNG to be lifted by Customer beginning with the first day of the next month and which sets forth the projected dates and volumes of each such liftings for each of the next such ninety (90) days. The Ninety Day Schedule shall detail the projected Scheduled Loading Window, the Scheduled Loading Quantity and the anticipated number of Transport Trucks required to lift such Scheduled Loading Quantity during each such Scheduled Loading Window for each relevant day during each month of such schedule, subject to the Maximum Daily Gas Quantity, Minimum Lifting Requirement and operational storage available for Customer's Inventory.
- 6.2.2 Adjustments to Ninety Day Schedule. Each Ninety Day Schedule shall reflect all adjustments, if any, necessitated by deviation from prior Ninety Day Schedules. Both Parties shall cooperate to facilitate smooth performance of the Ninety Day Schedule. The Parties shall reasonably endeavor to cause the Ninety Day Schedule to be consistent with the Annual Delivery Program. Notwithstanding the foregoing, Service Provider has no obligation to schedule any Scheduled Loading Quantity that would result in a negative Customer's Inventory.
- 6.2.3 LNG Scheduling Changes. Service Provider will approve any modifications proposed by Customer to the Annual Delivery Program or Ninety Day Schedule, *provided* that: (a) such change is consistent with the LNG Facility's Operational Capacity during the relevant period and would not result in Customer lifting less than the lesser of (x) the Minimum Lifting Requirement or (y) the Scheduled Loading Quantity previously accepted by Service Provider, in each case, in respect of the relevant Gas Day, (b) such change would not result in a new Scheduled Loading Window that was not previously included in the relevant Annual Delivery Program or Ninety Day Schedule, as applicable, and falls within a Scheduled Maintenance period or an anticipated Unscheduled Maintenance period or other

anticipated period of Services Unavailability, (c) such change would not result in Customer lifting more than the quantity of LNG corresponding to the Maximum Daily Gas Quantity for the relevant Gas Day, (d) Service Provider has reasonable prior Notice before the Scheduled Loading Window affected by the requested modification and (e) Customer agrees to any corresponding changes to the Gas Delivery Schedule determined by Service Provider in connection with Customer's requested change. In addition to Service Provider's rights to adjust the Annual Delivery Program or Ninety Day Schedule pursuant to Clause 3.4.6, Clause 3.5.3, this Clause 6.2.3, and Clause 7.4, Service Provider may propose changes to the Annual Delivery Program or Ninety Day Schedule, and Customer shall not unreasonably withhold its consent to such request. For the avoidance of doubt, any cancellation of a Scheduled Loading Window as a result of this Clause 6.2.3 shall not be considered a Failure to Lift or a Services Unavailability.

### 6.3 Gas Delivery Schedule

- 6.3.1 Issuance. Concurrently with each Ninety Day Schedule provided pursuant to Clause 6.2, Service Provider shall provide Customer with a forecast of Gas required to be delivered by or on behalf of Customer at the Gas Delivery Point for each Gas Day (the "**Daily Gas Quantity**") in the same three (3) months covered by the Ninety Day Schedule (the "**Gas Delivery Schedule**"). Each Gas Delivery Schedule shall include the following:
- (a) the Daily Gas Quantity for each Gas Day in the first month of the Ninety Day Schedule, which constitutes the quantity that Customer shall deliver, or cause to be delivered, to the Gas Delivery Point; and
  - (b) the Daily Gas Quantity in the remainder of the Ninety Day Schedule, which is provided by Service Provider to Customer for planning purposes only.
- 6.3.2 Daily Gas Quantity. Unless Clause 3.2.2 applies, the Daily Gas Quantity shall be determined by Service Provider based on the minimum quantity of Gas that is sufficient to keep the cryogenic equipment and other facilities at the LNG Facility cooled to an adequate temperature and state of readiness to provide continuous and reliable Services to Customer or as otherwise required during any period of Scheduled Maintenance (the "**Keep Cool Quantity**") *plus* such quantities of Gas sufficient to enable Service Provider to make available for delivery the full amount of LNG contemplated for delivery to Customer by the Annual Delivery Program and Ninety Day Schedule (up to the Operational Capacity of the LNG Facility). Customer shall have the obligation to deliver sufficient Gas to the Gas Delivery Point in order to maintain the Keep Cool Quantity.
- 6.3.3 Change to Gas Delivery Schedule. Customer may request changes to the Gas Delivery Schedule, and Service Provider shall approve such request so long as: (a) such change is operationally feasible and would not result in Customer lifting less than lesser of (x) the Minimum Lifting Requirement or (y) the Scheduled Loading Quantity previously accepted by Service Provider, in each case, in respect of the relevant Gas Day, (b) such change would not result in deliveries of Gas on a Gas Day that was not previously included on the relevant Gas Delivery Schedule and falls within a Scheduled Maintenance period or an anticipated Unscheduled

Maintenance period or other anticipated period of Services Unavailability, (c) such change would not result in Customer delivering more Gas than the Maximum Daily Gas Quantity for the relevant Gas Day and (d) Customer agrees to any corresponding changes to the Annual Delivery Program, Ninety Day Schedule or Gas Delivery Schedule determined by Service Provider in connection with Customer's requested change. In addition to Service Provider's rights to adjust the Gas Delivery Schedule pursuant to Clause 3.4.6, Clause 3.5.3, this Clause 6.3.3 and Clause 7.4, Service Provider may make changes to the Daily Gas Quantity for any Gas Day of the Gas Delivery Schedule to reflect changes in the Keep Cool Quantity based on changes in the projected Operational Capacity for such Gas Day.

#### **6.4 Scheduling Logistics**

No later than ten (10) days after Service Provider provides its forecast for the first Contract Year, Customer and Service Provider shall appoint one individual to act as its scheduling representative to receive and provide the information relating to the scheduling of LNG and Gas under this Article 6. Either Party may change the identity of its scheduling representative at any time by Notice of the replacement scheduling representative to Service Provider. Unless otherwise stated herein, Customer and Service Provider hereby authorize their respective scheduling representatives to perform any and all acts for and on behalf of Customer and Service Provider with regard to scheduling matters provided for in this Article 6. Notwithstanding anything herein to the contrary, Customer shall use its commercially reasonable efforts to not schedule or nominate any Gas deliveries or Scheduled Loading Windows during any periods of Scheduled Maintenance (other than Gas deliveries as necessary to provide the Keep Cool Quantity).

### **7. LNG FACILITY**

#### **7.1 Standards of Construction and Operation**

- 7.1.1 Design and Construction. By the Commencement Date, Service Provider shall have caused (i) the first Train to be designed, engineered, constructed, tested and commissioned in material compliance with all approvals necessary to provide Services to Customer as described herein and (ii) the Lateral Gas Pipeline and Lateral NGL Pipeline to be designed, engineered, constructed, tested, commissioned and interconnected with Producer's pipelines at the Gas Delivery Point and NGL Delivery Point, respectively. In this regard, Service Provider shall obtain and, once obtained, maintain during the Term all approvals necessary to construct, commission and operate the LNG Facility.
- 7.1.2 Operation and Maintenance. On and after the Commencement Date, Service Provider shall operate, maintain and modify (or cause to be operated, maintained and modified) the LNG Facility in accordance with the standards of a Reasonable and Prudent Operator.
- 7.1.3 Integrated Facilities. Customer acknowledges that: (a) on and after the Commencement Date, the LNG Facility shall be operated on an integrated basis with respect to all constructed facilities; and (b) Customer shall not be entitled to exclusive use of, or access to, any particular portion of the LNG Facility, including any particular Train, storage tank, or other facilities, but instead shall be entitled to the Services hereunder.



7.1.4 Other Services. For purposes of clarity, so long as Service Provider is providing Services to Customer on a Firm Capacity Basis as required under this Agreement (and subject to the terms of this Agreement, including in respect of Expanded Capacity) and is acting as a Reasonable and Prudent Operator, Service Provider shall be permitted to, and nothing herein shall be deemed to restrict or limit Service Provider from, utilizing all or any portion of the capacity of the LNG Facility to provide liquefaction services and other Services to other Persons on such terms as Service Provider determines in its sole discretion.

## 7.2 **LNG Facility**

7.2.1 Generally. Without limiting Clause 7.1, the LNG Facility shall at all times on and after the Commencement Date include at least the facilities described on Schedule A.

7.2.2 Rights to LNG Facility. Service Provider shall have ownership or contractual use rights to the LNG Facility sufficient to provide the Services for the Term.

## 7.3 **Reporting; Inspection of LNG Facility**

Until the occurrence of the Commencement Date, Service Provider shall provide Customer with written, non-binding, quarterly progress reports regarding the schedule of the construction and commissioning of the LNG Facility. Such reports shall be provided to Customer by Service Provider within fifteen (15) days after the beginning of each calendar quarter following the Effective Date. Upon giving Service Provider at least forty-eight (48) hours' written notice, Customer and its representatives and designees may inspect, during business hours at the LNG Facility, the construction or operation of the LNG Facility. Customer's right to carry out an inspection of the LNG Facility shall be limited to reviewing Service Provider's compliance with this Agreement. Any such inspection shall be carried out at Customer's sole risk and expense and in accordance with existing procedures, all Applicable Laws, security, and safety procedures applicable to the LNG Facility or any part thereof, and shall not interfere with or delay the construction or operation of the LNG Facility, and shall not cause damage to, or reduce the processing capacity or useful life of, the LNG Facility or any part thereof.

## 7.4 **Scheduled Maintenance**

Subject to the terms of this Clause 7.4, Service Provider shall have the right to curtail Services, in whole or in part, during the period specified in any relevant Annual Delivery Program or Ninety Day Schedule to undertake scheduled maintenance activities at, or modification of, the LNG Facility ("**Scheduled Maintenance**"). Notwithstanding anything herein to the contrary, Service Provider may modify any Annual Delivery Program or Ninety Day Schedule to account for any Scheduled Maintenance so long as Service Provider provides Notice thereof to Customer at least ninety (90) days prior to the first day of the relevant Scheduled Maintenance period, and, in such case, the Parties shall consult with one another in good faith to determine the relevant modifications to the Gas Delivery Schedule and Scheduled Loading Windows to account for the same. During the period of Scheduled Maintenance, Service Provider shall, from time to time, update Customer on the expected progress towards completing the maintenance or modification, as applicable. Service Provider shall be entitled to curtail Services (in whole or in part) for reason of Scheduled Maintenance; *provided, however*, that, without the prior written

consent of Customer, Service Provider may not curtail Services for reason of Scheduled Maintenance (a) for more than twenty (20) days in the aggregate during any Contract Year or (b) for more than five (5) days in the aggregate between the months of September and May during any relevant adjacent Contract Years. Without limitation of the foregoing, while Service Provider shall use its commercially reasonable efforts to minimize the number of Scheduled Maintenance days between the months of September and May, the Parties acknowledge and agree that certain periods of Scheduled Maintenance may need to be scheduled during such months. Notwithstanding anything herein to the contrary, a period of Scheduled Maintenance shall not comprise a Services Unavailability for purposes of this Agreement; *provided, however*, that any Scheduled Maintenance in excess of either of the periods described in clauses (a) or (b) above shall be deemed a Services Unavailability during such excess period for purposes of this Agreement. Customer shall inform Service Provider when Customer learns of scheduled maintenance to pipeline delivery systems upstream of the Gas Delivery Point, and Service Provider shall use commercially reasonable efforts to undertake Scheduled Maintenance during such periods.

## **7.5      **Unscheduled Maintenance****

In addition to and without limitation of the rights set forth in Clause 7.4, Service Provider shall have the right to curtail Services, in whole or in part, at any time in order to protect persons and property, including the LNG Facility, from harm or damage due to operational or safety conditions (“**Unscheduled Maintenance**”). Service Provider shall provide Customer a Notice of curtailment as soon as reasonably practicable under the circumstances, and such Notice may be issued for a specific period of time or until further Notice is given. A period of Unscheduled Maintenance shall be deemed a period of a Services Unavailability for purposes of this Agreement.

## **7.6      **Modifications or Expansion to LNG Facility****

7.6.1    Generally. Service Provider shall have the right, but not the obligation, to modify the LNG Facility from time to time in order to perform the Services; *provided that* unless required by a Change in Law or Standard, such modifications will not otherwise conflict with Service Provider’s obligations to perform the Services under this Agreement. No modifications to the LNG Facility shall relieve Service Provider of its obligations under this Agreement to make available Services and the provisions of Clause 3.4 shall apply to any such interruption. Without limitation of the foregoing or any of the other express terms and provisions of this Agreement and for purposes of clarity, Service Provider shall have the right to expand or otherwise modify the LNG Facility at any time and from time to time, including to provide additional services to its Affiliates or to third party customers, and the foregoing shall not, in and of itself, constitute any breach or violation of any of the terms of this Agreement.

7.6.2    Expansion of the LNG Facility by Service Provider. Whether by Customer’s written request or on its own initiative, Service Provider shall have the right, but not the obligation, to expand the LNG Facility from time to time to include one or more additional Trains to increase the output capacity of the LNG Facility above the Initial Nameplate Capacity. If Service Provider’s decision to expand the LNG Facility is independent of any such request from Customer, unless Service Provider otherwise agrees, Customer shall have no right to increase its right to Firm Capacity Service hereunder above the Initial Nameplate Capacity. If Customer

has provided Notice requesting additional firm capacity above the Initial Nameplate Capacity (“**Expanded Capacity**”), and Service Provider agrees to expand the LNG Facility to satisfy Customer’s request for Expanded Capacity, then Customer shall be entitled to such Expanded Capacity and Service Provider shall expand the LNG Facility in such manner as it reasonably determines in order to provide Customer such Expanded Capacity; *provided* that (a) Customer and Service Provider are able to reach an agreement on a new Minimum Volume Commitment and, if applicable, an adjustment to the Base Service Fee, among other terms and conditions, to ensure that Service Provider is able to maintain the same expected return on capital as applicable to Service Provider’s initial investment into the construction and operation of the LNG Facility at the Initial Nameplate Capacity, which shall be adopted by an amendment to this Agreement, (b) any such expansion of the LNG Facility (including the acquisition of an additional pad site necessary to construct such expansion) shall be subject to the approval of all applicable Authorized Authorities and (c) to the extent that Customer has requested Expanded Capacity that would result in more than two total Trains (including the initial Train) to be located at the LNG Facility, then all costs and expenses to acquire any additional pad site necessary to expand the LNG Facility shall be taken into consideration in determining the adjustment to the Base Service Fee as described above.

7.6.3 Expansion of the LNG Facility by Customer. If Customer provides Notice requesting Expanded Capacity and Service Provider declines to expand the LNG Facility at its cost, Service Provider hereby agrees that Customer may elect to make the necessary investment, at its cost, to expand the LNG Facility (including acquisition of any additional pad site required to expand the LNG Facility) to achieve the relevant Expanded Capacity, subject to the following:

- (a) The Expanded Capacity shall be limited to two additional Trains with a production capacity of not more than 150,000 Gallons per day per Train;
- (b) Service Provider must receive all approvals from the applicable Authorized Authorities with respect to such expansion of the LNG Facility and/or acquisition of an additional pad site; *provided* that Service Provider shall use its commercially reasonable efforts to obtain such permits and additional pad site;
- (c) Customer shall own such Train(s), subject to the Parties reaching an agreement on structuring ownership of such Train(s) and the entering into of a common facilities agreement or any other agreements (including real property and access agreements) necessary for the ownership and operation of such Train(s), including the ability to operate such Train(s) on an integrated basis with the remainder of the LNG Facility;
- (d) Service Provider will manage construction of such Train(s) subject to the Parties or their designees entering into a construction management agreement, which shall include customary construction management fees, not to exceed ten percent (10%) of total project cost;
- (e) Service Provider will operate such Train(s), subject to the Parties or their designees entering into an operating and maintenance agreement, which

shall include customary management fees, including a reimbursement of incremental costs associated with operating the Expanded Capacity plus a ten percent (10%) markup of such incremental costs; and

- (f) Such expansion shall not otherwise affect the Parties' respective rights and obligations under this Agreement, including as they relate to the Minimum Volume Commitment and Firm Capacity Service.

## **8. TITLE AND RISK OF LOSS AND RETAINAGE**

### **8.1 Title and Risk of Loss**

- 8.1.1 Title. Except with respect to Retainage and pursuant to Clause 16.4.1, title to, and risk of loss of, Customer's Inventory shall not transfer to Service Provider, irrespective of where such Gas, NGLs or LNG is physically located in the LNG Facility.
- 8.1.2 Custody. Service Provider shall have custody and control of, but, subject to the terms of Clauses 4.3, 8.4 and 8.5, shall not bear the risk of loss, of (a) Gas from and after the Gas Delivery Point, including while any such Gas is being processed in the LNG Facility, (b) all NGLs or carbon dioxide extracted from such Gas up to the point where such NGLs or carbon dioxide passes the NGL Delivery Point, and (c) all LNG from the moment of its production up to the point where such LNG passes the LNG Delivery Point, including while any such LNG is being temporarily stored at the LNG Facility.

### **8.2 Customer's Warranty and Indemnity in Respect of Gas**

Customer warrants that, at the time Gas is delivered at the Gas Delivery Point for Customer's account, Customer shall have the right to deliver all such Gas and that such Gas shall be free from all Encumbrances and adverse Claims of Persons claiming by or through Customer. Subject to appropriation of the requisite funds by Customer's Board to satisfy the following obligation, Customer shall indemnify and hold Service Provider harmless from and against all Claims arising out of or related to a breach of Customer's warranty in the foregoing sentence.

### **8.3 Service Provider's Warranty and Indemnity in Respect of LNG and NGLs**

Service Provider warrants to Customer that, at the time LNG is delivered at the LNG Delivery Point and NGLs are delivered at the NGL Delivery Point, Service Provider shall have the right to deliver all such LNG and NGLs, and that such LNG and NGLs shall be delivered free from all Encumbrances caused by Service Provider. Service Provider shall indemnify and hold Customer harmless from and against all Claims arising out of or related to a breach of Service Provider's warranty in the foregoing sentence.

### **8.4 Retainage**

Subject to Clause 4.3, Service Provider may take title to, without charge, such quantities of Gas, LNG, carbon dioxide or NGLs used as fuel, or otherwise lost or unaccounted for, in providing the Services and for operation of the LNG Facility, including the Lateral Gas Pipeline and Lateral NGL Pipeline (collectively, "**Retainage**").

## **8.5 Inventory Loss**

As between Customer and Service Provider, with respect to Customer's Inventory, any loss of Gas (or LNG, NGLs or carbon dioxide therefrom) at the LNG Facility (other than Retainage) shall be borne by Customer except where such loss is caused by the negligence, Gross Negligence or Willful Misconduct of Service Provider. To the extent any insurance proceeds are available to cover such loss, Service Provider shall use its commercially reasonable efforts to file and pursue a claim, and, if any proceeds are ultimately recovered in respect thereof, distribute such proceeds to Customer within a reasonable time after receipt of such proceeds.

# **9. MEASUREMENT**

## **9.1 Measurement**

The volume of Gas and LNG delivered under this Agreement shall be determined at the time of delivery at the Gas Delivery Point (with respect to deliveries of Gas by Customer) or the LNG Delivery Point (with respect to deliveries of LNG by Service Provider), which delivery points shall employ calibrated meters, certified at the time of delivery in accordance with Applicable Law, and corrected in each instance to measure volume in Mcf or MMBtu (in the case of the Gas Delivery Point) or U.S. Gallons (in the case of the LNG Delivery Point). All gauging, sampling and testing of Gas or LNG shall be performed in accordance with the latest methods of the API MPMS and the ASTM or other acceptable analytical testing methodology. All quantity/volume determinations shall be made in accordance with then currently applicable ASTM methodology. The actual volumes received and delivered shall be the measured volumes reported in Mcf, MMBtu or Gallons, as applicable.

## **9.2 Maintenance of Meters**

Unless maintenance requirements imposed by Applicable Law or the API MPMS and the ASTM are more stringent, in which case such maintenance requirements will apply, Service Provider shall inspect, test and adjust its metering and measurement equipment, or shall cause its agents to do the same, at Service Provider's expense on at least an annual basis. Service Provider shall provide Customer with not less than five (5) Business Days prior written notice of any scheduled meter inspections and afford Customer and/or its representatives the opportunity to be present during such inspections. In the event that Customer desires additional inspections and tests of the meters, Customer may require such inspections and tests of Service Provider, and Service Provider shall promptly perform such inspections and tests at Customer's cost; *provided, however*, that if such inspections and tests identify any inaccuracy in excess of zero point five percent (0.5%), Service Provider shall be responsible for the costs of such inspection and tests.

## **9.3 Disputes**

9.3.1 If Service Provider or Customer has reason to believe there to be an error in the meter readings for one or more deliveries of Gas or LNG by an amount in excess of zero point five percent (0.5%), the Party asserting error shall, within thirty (30) days of the date of delivery of volumes it believes were incorrectly measured, present the other Party with documentation supporting such determination. The Parties shall confer, in good faith, on the causes for the discrepancy and shall

proceed to correct such causes and adjust the volumes, if justified, for the volumes in question. If the period of time for which the material inaccuracy cannot be definitely known and is not mutually agreed upon, the correction shall be prorated on a fifty percent (50%) basis over the time elapsed between the last prior calibration test and the date the inaccuracy is corrected. In the event an error is determined that prejudiced Service Provider, Customer shall pay Service Provider the difference between the amounts paid for LNG delivered during the period of time during which the meter(s) was inaccurate and the actual amounts that should have been paid for the volume of LNG actually delivered. If the error prejudiced Customer, then Service Provider shall, at Customer's sole discretion, either (i) refund the amount overpaid by Customer; or (ii) credit such amounts against amounts due by Customer on the subsequent invoice(s).

- 9.3.2 Notwithstanding the foregoing, in the event of any Dispute concerning the subject matter of this Article 9, including Disputes over selection of the type or the accuracy of measuring devices, their calibration, the result of a measurement, sampling, analysis, computation or method of calculation, the Parties shall submit such Dispute for negotiation under Clause 21.1 and, if not resolved pursuant to Clause 21.1, then to an Expert under Clause 21.3.

## **10. GAS SPECIFICATIONS**

### **10.1 Generally**

- 10.1.1 Gas delivered by or on behalf of Customer at the Gas Delivery Point shall meet the Gas specifications set forth in Schedule C. Any Gas that fails to conform to such specifications shall be "**Off-Spec Gas**."
- 10.1.2 Without limitation of the terms of Article 9 above, as part of the construction and operation of the LNG Facility, Service Provider shall install prior to the Commencement Date, and maintain from and after the Commencement Date and during the remainder of the Term, sampling equipment at or near the inlet flange of the Gas Delivery Point or such other locations within the LNG Facility as it reasonably determines from time to time (e.g., at the inlet flange of the cold box facilities), which equipment shall be utilized to test the quality of Gas delivered at the Gas Delivery Point hereunder during each Gas Day as a Reasonable and Prudent Operator.

### **10.2 Notice and Acceptance**

- 10.2.1 Notice. A Party shall provide Notice to the other Party as soon as reasonably practicable of any existing or anticipated delivery of Off-Spec Gas, giving details (to the extent known or ascertainable) of the nature and expected magnitude of the variance, the cause of the variance, and the probable duration thereof. Upon such Notice, Service Provider shall as soon as practicable inform Customer whether it intends to accept or reject any such Off-Spec Gas. Service Provider shall not unreasonably withhold its acceptance of Off-Spec Gas so long as it determines that such acceptance will not damage or adversely affect the safe operation or reliability of any portion of the LNG Facility.

- 10.2.2 Right to Reject. Without prejudice to any other rights and remedies of Service Provider hereunder, subject to Clause 10.2.1, Service Provider shall have the right (but not the obligation) to reject delivery of any or all Off-Spec Gas which shall result in a Failure to Deliver.
- 10.2.3 No Continuing Waiver. Acceptance of Off-Spec Gas shall not prevent Service Provider from refusing future receipts of Off-Spec Gas. No waiver by Service Provider of any default by Customer of any of the specifications set forth in this Article 10 shall ever operate as a continuing waiver of such specification or as a waiver of any subsequent default, whether of a like or different character.
- 10.2.4 Remedy. If Service Provider receives delivery of Off-Spec Gas which it would otherwise be entitled to reject, as Service Provider's exclusive remedies against Customer, (a) Customer shall bear fifty percent (50%) of any incremental costs and expenses and other damages incurred by Service Provider, in connection with Service Provider receiving and treating Off-Spec Gas by such means as are appropriate and (b) without limitation of the foregoing, subject to appropriation of the requisite funds by Customer's Board to satisfy the following obligation, Customer shall indemnify and hold harmless the Service Provider Indemnified Parties from and against fifty percent (50%) of the amount of any and all liabilities arising therefrom; *provided that* (i) Service Provider shall not be entitled to the foregoing remedies if and to the extent that Service Provider is actually aware that the relevant Gas is Off-Spec Gas prior to processing the same at the LNG Facility and had reasonable time to refuse to so process such Off-Spec Gas, in each case, unless Service Provider notified Customer of the same and Customer instructed Service Provider to so process such Off-Spec Gas, and (ii) in all cases Service Provider shall use commercially reasonable efforts to mitigate such costs and expenses and other damages. For the avoidance of doubt, for purposes of this Clause 10.2.4, the knowledge of Producer or any of its Affiliates shall not be deemed to impute any knowledge or awareness on the part of Service Provider notwithstanding any relationship between the Producer and the Service Provider, provided such knowledge has not been communicated to Service Provider in any form.

## 11. LNG SPECIFICATIONS

### 11.1 LNG Specifications

- 11.1.1 LNG loaded at the LNG Delivery Point shall meet the LNG specifications set forth in Schedule D ("**LNG Specifications**"). Except for the specifications set forth in Schedule D, all statutory or other conditions or warranties, express or implied, with respect to the description or satisfactory quality of LNG made available for delivery or its fitness for any particular purpose or otherwise are hereby excluded. Any LNG that fails to conform to such specifications shall be "**Off-Spec LNG**."
- 11.1.2 Without limitation of the terms of Article 9 above, as part of the construction and operation of the LNG Facility, Service Provider shall install prior to the Commencement Date, and maintain from and after the Commencement Date and during the remainder of the Term, sampling equipment at or near the outlet flange of the LNG Delivery Point or such other locations within the LNG Facility as it reasonably determines from time to time, which equipment shall be utilized to test

the quality of LNG delivered at the LNG Delivery Point hereunder during each Scheduled Loading Window as a Reasonable and Prudent Operator.

- 11.1.3 Service Provider agrees to provide Customer with the results of its determinations of quality (“**Certificate of Quality**”) representing the compliance of a representative sample of LNG with the LNG Specifications on the day of loading of a Transport Truck from the LNG Facility. Service Provider shall promptly notify Customer upon discovery that a precautionary sample is outside of contractual LNG Specifications.

## **11.2 Off-Spec LNG**

- 11.2.1 In the event that: (i) Service Provider informs Customer that the LNG to be loaded onto a Transport Truck is Off-Spec LNG; (ii) Customer finds that the LNG fails to meet the LNG Specifications, based on its own analysis, providing Service Provider evidence of such analysis; or (iii) Service Provider’s laboratory is unable to determine if the LNG to be delivered is in conformance with the LNG Specifications upon loading, except to the extent that any Off-Spec LNG is a result of Off-Spec Gas delivered by or on behalf of Customer, Customer may, upon notice to Service Provider, reject the LNG composing such shipment, and, in the event the product is already loaded, re-route the applicable Transport Truck back to the LNG Delivery Point at Service Provider’s cost. Except in the case where Off-Spec LNG is a result of Off-Spec Gas delivered by or on behalf of Customer, such failure to deliver LNG in accordance with the LNG Specifications shall be deemed a Services Unavailability, and in addition to the remedies available to Customer therefor, Service Provider shall reimburse Customer for all costs reasonably incurred by Customer within ten (10) Business Days of Service Provider receiving a detailed invoice from Customer setting forth such costs and any other supporting documentation relating to the shipment of Off-Spec LNG. Such costs shall include: (A) transportation costs incurred to deliver the Off-Spec LNG back to the LNG Delivery Point; (B) secondary testing costs; (C) costs associated with emptying and cleaning of the Transport Truck containing Off-Spec LNG; and (D) handling costs. Customer shall not commingle a delivery of LNG until it has received a Certificate of Quality or has itself confirmed by an independent test that the LNG is conforming, and Service Provider shall not be responsible for contamination of Customer’s LNG or other fuel supplies in such event.
- 11.2.2 Each delivery of LNG shall be deemed accepted by Customer if Customer does not reject such delivery or a Dispute has not been formally noticed, within five (5) days after the LNG has been delivered at the LNG Delivery Point. Should LNG later be determined to be defective in breach of the warranty set forth in Clause 11.1.1, the provisions of this Clause 11.2.2 shall control.

## **11.3 Limitation of Liability**

With respect to this Agreement, this Clause 11 provides the sole and exclusive remedy to Customer with respect to Off-Spec LNG and no Party shall have any other liability (whether in contract, tort, or otherwise) to any other Party with respect to Off-Spec LNG.



#### **11.4 Records; Right to Audit**

Service Provider shall retain any and all documents and records regarding the delivery, quantity and quality of LNG delivered under the terms of this Agreement for eighteen (18) months after the date of the delivery of such LNG, or until any Dispute regarding such delivery, quantity and quality is resolved or as required by a Authorized Authority, whichever is later. Service Provider shall provide Customer access to such documents and records on reasonable prior written notice and at reasonable hours, *provided that* such access shall be at Customer's sole cost and expense and shall be limited to confirming Service Provider's performance under this Agreement.

### **12. TAXES AND DUTIES**

#### **12.1 Customer's Taxes and Duties**

Customer shall be responsible for and pay (or cause to be paid) any Taxes on:

- (a) the income of Customer;
- (b) Customer's LNG or Gas or the ownership thereof, wherever located, regardless of whether Service Provider has possession or control of Customer's LNG or Gas, including, as between Customer and Service Provider, any royalties or similar payments due on any proceeds derived from the production of Gas and/or LNG;
- (c) the loading, transport, sale, transfer, receipt, or delivery of LNG or Gas to which the Agreement applies, including, to the extent applicable, any state or federal methane taxes and fees assessed by an Authorized Authority, to the extent such taxes are enacted after the execution of this Agreement; and
- (d) Services provided by Service Provider to Customer under this Agreement.

#### **12.2 Service Provider's Taxes and Duties**

Without limitation on Customer's obligation to pay the Services Fee, Service Provider shall be responsible for, pay (or cause to be paid), and indemnify and hold Customer harmless against, any form of Taxes levied or imposed, directly or indirectly, by any Authorized Authority, together with any interest, penalties, or additional amount on:

- (a) the income of Service Provider; and
- (b) the LNG Facility and associated real property interests.

### **13. INVOICING, PAYMENT, AND ADEQUATE ASSURANCES**

#### **13.1 Invoices**

13.1.1 Monthly Invoices to Customer. No later than the fifteenth (15<sup>th</sup>) day of each month, Service Provider shall prepare and deliver to Customer an invoice for the preceding month setting out all the amounts payable to Service Provider by

Customer pursuant to Article 4 for such preceding month, and any other amounts which may be payable by Customer to Service Provider under the provisions of this Agreement for such preceding month. Each such invoice shall state:

- (a) the Service Fee payable by Customer for such preceding month; and
- (b) in respect of the preceding month:
  - (i) the other fees and charges payable by Customer for such preceding month;
  - (ii) any credit due to Customer under the provisions of this Agreement;
  - (iii) adjustments made to a preceding month's invoice, including pursuant to any invoice submitted by Customer; and
  - (iv) any other amounts due from Customer to Service Provider under this Agreement (including interest accrued pursuant to Clause 13.4); and.
- (c) Such invoice shall either include or be followed by a statement setting forth for such month:
  - (i) the quantities of Services scheduled and actually delivered;
  - (ii) the total quantity of Gas received from Customer during such month;
  - (iii) the total quantity of LNG lifted by Customer during such month;
  - (iv) the total quantity of NGLs delivered at the NGL Delivery Point for such month;
  - (v) the total quantity of Retainage charged to Customer in respect of such month;
  - (vi) the balance of Customer's Inventory as of the end of such month; and
  - (vii) such other information as may be reasonably requested by Customer.

Each monthly invoice and statement shall be accompanied by relevant documents setting forth in detail the basis for the calculation thereof. To provide for the timely submission of the monthly invoices, Service Provider may estimate certain information not yet finalized or available in calculating the monthly invoices. Adjustments for reconciliation of such estimates shall be included in the monthly invoice following the time when the relevant information becomes available. Upon the reasonable request by Customer, the Parties shall meet to review the Services provided for such month.

- 13.1.2 Other Invoices. Other than the monthly invoice under Clause 13.1.1, in the event any amount is due from one Party to the other Party hereunder, the payee shall furnish to the payor an invoice therefor and relevant documents setting forth in detail the basis for the calculation thereof.

### **13.2 Due Date**

Each monthly invoice delivered by Service Provider to Customer in accordance with Clause 13.1.1 shall be denominated in US Dollars and shall become due and payable in full by the twenty-fifth (25<sup>th</sup>) day of each month. With respect of any invoice submitted by Customer to Service Provider pursuant to Clause 13.1.2, Service Provider shall apply the amount of such invoice as a credit to the following monthly invoice due from Customer. If the amount of a monthly invoice issued to Customer calculated pursuant to Clause 13.1.1 is a negative amount, such negative amount shall be carried forward to the next monthly invoice issued to Customer until fully applied towards the fees and charges due from Customer.

### **13.3 Payment Mechanics**

- 13.3.1 Customer shall pay each monthly invoice issued by Service Provider in the full amount due without reduction or offset for any reason (except in case of manifest error), including Taxes and bank transfer charges. Notwithstanding the preceding sentence, if the Customer deposits in immediately available funds the full amount of each statement in the relevant bank account nominated by Service Provider pursuant to Clause 13.3.2, such deposit shall constitute full discharge and satisfaction of the statement.
- 13.3.2 To enable Customer to pay invoices issued by Service Provider under this Agreement, Service Provider shall give notice to Customer of Service Provider's nominated bank accounts (including the name and address of each bank at which a nominated account is held) not later than the Commencement Date. Such nominated bank accounts shall remain the bank accounts for payments to Service Provider under this Agreement unless Customer is otherwise notified (including by way of including remittance details on the face of an invoice).

### **13.4 Default Interest**

If any payment which becomes due under this Agreement is not paid when due, such payment shall accrue interest daily at the Default Rate, compounded annually, from and including the day following the due date, up to and including the day when payment is made. The right of the Parties to receive interest in respect of the late payment of any sum due shall be without prejudice to any other rights the Parties may have under this Agreement, as a matter of law, or otherwise.

### **13.5 Non-payment**

- 13.5.1 Notice and Right Upon Non-Payment. If Customer fails to pay when due any amount owed hereunder, Service Provider shall provide Customer with Notice of such non-payment.

- 13.5.2 Right to Suspend. If payment by Customer of any one or more invoices hereunder exceeding \$2,000,000 in the aggregate remains unpaid for more than thirty (30) days after the due date thereof, Service Provider shall be entitled, upon giving ten (10) Business Days' Notice to Customer, to suspend Services (in whole or in part) to Customer until the amount of such invoice and interest thereon in accordance with Clause 13.4 has been paid.
- 13.5.3 Effect of Suspension. If Service Provider suspends Services pursuant to Clause 13.5.2, Customer shall continue to be liable for the Service Fee and all other amounts owing by Customer under this Agreement and, subject to Clause 3.2.2, Customer remains obligated to deliver the Keep Cool Quantity. Any Gas or LNG deliveries cancelled or affected by suspension of Services pursuant to Clause 13.5.2 shall constitute Failure to Deliver or Failure to Lift, as applicable, and there shall be no adjustment to the Minimum Volume Commitment associated therewith.
- 13.5.4 Right to Reduce Maximum Daily Gas Quantity. Notwithstanding anything herein to the contrary, and without limitation of the foregoing provisions of this Clause 13.5, if Customer fails to make any payment of Deficiency Fees owed hereunder in an aggregate amount in excess of \$1,000,000 and such amount remains unpaid for more than ninety (90) days after the initial due date thereof, Service Provider shall be entitled, upon giving ten (10) Business Days' Notice to Customer, to reduce the Maximum Daily Gas Quantity hereunder for all periods from and after such date (determined on a Contract Year basis) to an amount not less than the (x) the Minimum Volume Commitment of Customer in the relevant Contract Year *divided by* (y) 365.

### **13.6 Disputed Invoices**

- 13.6.1 Notice. Any invoice may be contested only if within a period of twelve (12) months after its receipt, the payor sends Notice to the payee of the Dispute, questioning the correctness of the invoice, and specifying what it believes to be the correct amount due and owing (if any), and the reasons for such disagreement. If such Notice is not served within the foregoing period, the relevant monthly invoice is conclusively deemed to be correct and shall be accepted by the Parties for all purposes.
- 13.6.2 Settlement of Dispute. Promptly after resolution of any Dispute as to an invoice, any necessary correction and consequent adjustment to a disputed invoice shall be made within five (5) Business Days after agreement or determination of the correct amount. The Party paying the amount of any such correction or adjustment to an invoice pursuant to this Clause 13.6.2 shall pay interest to the other Party on the amount of such correction or adjustment at the Default Rate from the day when payment was originally due up to the date payment is made; *provided that* if such period of non-payment lasts more than three (3) months, the Prime Rate component of the Default Rate for each successive term of three (3) months during that period shall be that in effect on the first (1<sup>st</sup>) day of the relevant three (3) month period.

### **13.7 Audit Rights.**

- 13.7.1 Customer may, at Customer's sole cost and expense, cause an independent auditor to conduct a single audit every twelve (12) months during the Term with respect to the books, records and accounts of Service Provider that are directly relevant to the determination of any amounts invoiced, charged, or credited by Service Provider within the previous twelve (12) months (except to the extent such books, records and accounts have been previously audited), pursuant to the following procedures:
- (a) Customer shall provide Service Provider at least thirty (30) days' written notice of any such audit;
  - (b) any such audit shall be conducted at the offices of Service Provider where the relevant books and records are located, during Service Provider's regular business hours and on reasonable prior notice;
  - (c) any such audit shall be completed within forty-five (45) days after Service Provider's relevant books and records have been made available to the independent auditor; and
  - (d) Customer shall cause the auditor to execute a confidentiality agreement in accordance with the requirements of Clause 19.2(f) prior to the commencement of the audit.
- 13.7.2 If the audit discloses an error in any invoiced amount under this Agreement, then Customer shall, within sixty (60) days following completion of the audit relating to the affected invoice, provide Notice to Service Provider describing the error. Such Notice shall include a copy of the audit report and supporting documentation prepared by the independent auditor.
- 13.7.3 Promptly after Service Provider's receipt of such Notice, the Parties shall, without prejudice to the rights of the Parties under Clause 21, commence discussions regarding such error in order to expeditiously achieve resolution of such Dispute. Following resolution of any error pursuant to this Clause 13.7, Service Provider shall pay interest to Customer on the amount of such correction or adjustment at the Default Rate from the day when payment was originally due up to the date payment is made.

### **13.8 Customer Adequate Assurances**

- 13.8.1 If at any time after the Effective Date, (a) Customer is in default of any payment obligation under this Agreement and such default has not been cured within ten (10) Business Days of receipt by Customer of Notice of default, (b) Service Provider has reasonable grounds for insecurity regarding Customer's ability to make payments under this Agreement or (c) any existing Performance Assurance (as defined below) provided to Service Provider by Customer hereunder ceases to be in full force and effect or is otherwise reasonably deemed by Service Provider to be insufficient to cover Customer's payment obligations arising under this Agreement as a result of either market conditions or Customer's financial responsibility being or becoming impaired or unsatisfactory, then Service Provider

may demand that Customer procure and deliver to Service Provider adequate assurance of performance (which shall include a prepayment or a letter of credit from an Acceptable Bank) (individually and collectively, as applicable, “**Performance Assurance**”) that shall serve to guarantee Customer’s payment obligations arising under this Agreement as determined by Service Provider in Service Provider’s sole, but reasonable and good faith, judgement. Without limitation of the generality of the foregoing, Service Provider may request, at any time following the Commencement Date and during the remainder of the Term and based upon the occurrence of any of the events or conditions described in clauses (a) through (c) above, Performance Assurance in the form of a prepayment for an amount equal to the greater of (x) the amount equal to twenty percent (20%) of the Minimum Volume Commitment for the then-current Contract Year multiplied by the Base Service Fee or (y) fifty percent (50%) of the sales amount Service Provider is forecasted to realize from LNG lifted by Customer based on Customer’s then-current Ninety Day Schedule. Customer shall provide to Service Provider any contractual Performance Assurance that is requested by Service Provider hereunder no later than twenty (20) Business Days after receipt of Service Provider’s demand in accordance with this Clause 13.8.1. Service Provider’s obligation to perform under this Agreement following a demand of Performance Assurance from Customer is contingent upon and subject to Customer’s obligation to provide Performance Assurance as provided herein.

- 13.8.2 In the event Customer fails to provide adequate Performance Assurance satisfactory to Service Provider in accordance with Clause 13.8.1, Service Provider may, at its sole election, suspend its performance under this Agreement until Customer has provided such Performance Assurance and any such suspension shall not constitute a Services Unavailability nor shall it result in any adjustment to the Minimum Volume Commitment associated therewith.
- 13.8.3 From the Effective Date and for the duration of the Term, Customer shall furnish to Service Provider, within ten (10) days of Service Provider’s request, and in any event, following the applicable fiscal year, as and when such documents are available, audited annual financial statements of Customer.

### **13.9 Service Provider Adequate Assurances**

- 13.9.1 For as long as Service Provider or any of its Affiliates (a) is subject to any financial covenants under any performance bond or guarantee provided to the Department of Natural Resources or other applicable Authorized Authority in Alaska and (b) is in compliance in all material respects with such financial covenants, then Service Provider shall not be required to provide a Parent Guarantee pursuant to Clause 13.9.2.
- 13.9.2 Subject to Clause 13.9.1, if, at any time after the Commencement Date, (a) Service Provider is in default of any payment obligation under this Agreement and such default has not been cured within ten (10) Business Days of receipt by Service Provider of Notice of default or (b) Customer has reasonable grounds for insecurity regarding Service Provider’s ability to make payments or perform under this Agreement, then Customer may demand that Service Provider procure and deliver to Customer a guarantee from Harvest Alaska, LLC guaranteeing the payment and performance obligations of Service Provider hereunder substantially in the form

attached as Exhibit D hereto (“**Parent Guarantee**”). Service Provider shall provide such Parent Guarantee to Customer within twenty (20) Business Days after receipt of Customer’s demand in accordance with this Clause 13.9.2.

## 14. FORCE MAJEURE

### 14.1 Events of Force Majeure

14.1.1 Definition. No Party shall be liable to the other for any delay or failure in performance hereunder if and to the extent such delay or failure is a result of Force Majeure. The term “**Force Majeure**” shall mean any act, event, circumstance, or combination of the foregoing that is not reasonably within the control of, and that prevents or delays a performance by, a Party; *provided that* an event or circumstance shall not constitute Force Majeure affecting a Party if its occurrence or effect is not beyond the reasonable control of, or could have been avoided by steps which may reasonably have been expected to have been taken by the following Persons (in each case, acting by the standards of a Reasonable and Prudent Operator): (i) the affected Party, (ii) in the case of Customer as the affected Party, any Producer, the operator of any Upstream Facilities, or Transporter and (iii) servants or agents of any of the foregoing. Force Majeure, to the extent the relevant events satisfy the foregoing definition, shall be deemed to include:

- (a) fire, flood, drought, explosion, blizzard, atmosphere disturbance, lightning, storm, tempest, hurricane, cyclone, typhoon, tornado, earthquake, tsunami, landslide, perils of the sea, soil erosion, subsidence, washout, pandemic, epidemic or other acts of God; *provided that* COVID-19 and its current variants and responses thereto shall not constitute Force Majeure events except to the extent a lockdown or similar action is required by an Authorized Authority;
- (b) war (whether declared or undeclared), riot, civil war, blockade, insurrection, acts of public enemies, invasion, embargo, trade sanctions, revolution, sabotage, piracy, the serious threat of or an act of terrorism;
- (c) strikes, bans or lock outs, other than those involving the employees of the affected Party or any of its Affiliates;
- (d) chemical or radioactive contamination, ionizing radiation or any other form of contamination;
- (e) loss of, serious failure or inoperability of, or damage to, all or any part of the LNG Facility, including any accident, failure, breakage, fire, explosion, blow-out or inoperability that requires shut-down of all or part of the LNG Facility, if and only if, not caused by the negligence of Service Provider or its Affiliates;
- (f) loss of, serious failure or inoperability of, or damage to, all or any material part of (i) any Upstream Facilities or (ii) Customer’s storage and distribution facilities, including any accident, failure, breakage, fire, explosion, blowout or inoperability that requires shut-down of all or any material part of any Upstream Facilities or Customer’s storage and

distribution facilities, if and only if, not caused by the negligence of Customer or its Affiliates;

- (g) acts or omissions of an Authorized Authority (regardless of whether such acts or omissions are within the legal authority of such Authorized Authority;
- (h) any incidents adversely affecting suppliers and contractors to the Party claiming suspension of its obligations (where such incidents would qualify as a Force Majeure event had they happened to such Party);
- (i) delays in construction, completion, commissioning and placement in service of the LNG Facility, excluding any delay in construction past September 30, 2025; or
- (j) any failure by Producer to deliver Gas to the Gas Delivery Point as nominated by Customer under the Gas Sales Agreement, including if due to a Force Majeure Event (as defined in the Gas Sales Agreement), in each case, if and only if not caused by the negligence or other fault, action or omission of Customer or its Affiliates.

14.1.2 Not Force Majeure. Notwithstanding Clause 14.1.1, the following events shall not constitute Force Majeure:

- (a) a Party's inability to finance its obligations under this Agreement or the unavailability of funds to pay amounts when due in the currency of payment;
- (b) the withdrawal, denial, or expiration of or failure to obtain any approval of any Authorized Authority caused by the affected Party's: (i) actions, including a violation or breach of the terms and conditions of any existing approval or other requirement of Applicable Law, or (ii) failure to apply for or follow the necessary procedures to obtain any approval, or to obtain the maintenance, renewal, or reissuance of the same, in either event, only if the affected Party knew or should have known, after due inquiry and the exercise of efforts expected by the standards of a Reasonable and Prudent Operator, that such action or failure, as the case may be, would have caused the withdrawal, denial, non-renewal, or non-issuance of such approval;
- (c) the ability of Service Provider or Customer to obtain better economic terms for the Services or similar services;
- (d) changes in any Party's market factors, default of payment obligations, or other commercial, financial, or economic conditions, including failure or loss of a Customer's Gas, LNG or power markets;
- (e) in the case of Customer, any event affecting any retail customer of Customer, including default of payment obligations, force majeure claims, repudiation of any service or any adverse claims that any such customer



may have against Customer which may alter Customer's need for LNG hereunder; and

- (f) in the case of Customer, for as long as it is a subsidiary of Fairbanks North Star Borough or any other governmental entity, Force Majeure shall not include (i) changes in Applicable Law passed by Fairbanks North Star Borough or any political subdivision of the State of Alaska, (ii) act of any Authorized Authority of the Fairbanks North Star Borough or any political subdivision of the State of Alaska, (iii) compliance by any Person of any Applicable Laws or acts reference in the foregoing (i) and (ii), the principal effect of which is primarily borne by Customer and its Affiliates and is not generally borne by all Persons within Fairbanks North Star Borough or the State of Alaska undertaking similar activities or businesses as Customer.

- 14.1.3 Affected Party. Nothing in this Clause 14.1 shall be construed to require a Party to observe a higher standard of conduct than that required by the standards of a Reasonable and Prudent Operator as a condition to claiming the existence of Force Majeure.

#### **14.2 Limitations on Scope of Force Majeure Provision**

- 14.2.1 Notwithstanding Clause 14.1 of this Agreement but subject to Clause 3.5.2, no Force Majeure shall relieve, suspend, or otherwise excuse any Party from performing any obligation to indemnify, reimburse, hold harmless, or otherwise pay another Party under this Agreement. For the avoidance of doubt, without limitation of any MVC Reduction Credits to which Customer may be entitled pursuant to Clause 3.5.2 (and subject to the terms thereof), the Service Fees (including the Deficiency Fee) shall not be reduced due to any Force Majeure where Customer is the affected party except as otherwise expressly provided in this Agreement.
- 14.2.2 Except as otherwise provided in Clause 5.3.2 and Clause 16.1(g)(iv), the Term shall not be extended by Force Majeure events.

#### **14.3 Notice**

- 14.3.1 Initial Notice. A Force Majeure event shall take effect at the moment such an event or circumstance occurs. Promptly (or as soon as reasonably practicable) upon the occurrence of a Force Majeure that prevents, interferes with, or delays the performance by a Party, in whole or in part, of any of its obligations hereunder, the affected Party shall give Notice thereof to the other Party describing such event and stating the obligations the performance of which are affected (either in the original or in supplemental Notices) and stating, as applicable:
  - (a) the estimated period during which performance may be prevented, interfered with, or delayed, including, to the extent known or ascertainable, the estimated extent of such reduction in performance; and
  - (b) the particulars of the program to be implemented to resume normal performance hereunder.

- 14.3.2 Updates. Such Notices shall thereafter be updated at least monthly during the period of such claimed Force Majeure, specifying the actions being taken to remedy the circumstances causing such Force Majeure.

#### **14.4 Measures**

In order to resume normal performance of this Agreement within the shortest time practicable, the Party affected by the Force Majeure shall take all measures to this end which are commercially reasonable under the circumstances, taking into account the consequences resulting from such event of Force Majeure. Prior to resumption of normal performance, the Parties shall continue to perform their respective obligations under this Agreement to the extent not excused as a result of such event of Force Majeure. For the avoidance of doubt, with respect to an event of Force Majeure affecting Service Provider, nothing hereunder shall obligate Service Provider to procure or make available LNG for Customer from a supply source other than that produced at the LNG Facility. For clarity, the preceding sentence shall not limit Customer's right of cover at Service Provider's expense as provided in Clause 3.4.5 (and subject to the terms thereof).

#### **14.5 Obligations following Force Majeure**

- 14.5.1 To the extent a Party is entitled to relief from its obligations under this Agreement, on grounds that an event or circumstance constitutes Force Majeure, such Party shall as soon as reasonably possible take the measures which a Reasonable and Prudent Operator would take to bring the Force Majeure to an end and to overcome and minimize the effects and consequences thereof which prevent, impede or delay such Party's ability to resume performance hereunder.. Upon request of the other Party, the Party affected by the Force Majeure event, shall subject to the health and safety policies of the affected Party generally applicable to the affected site, provide reasonable access (or in the event that a Third Party's facilities, or the facilities of an Affiliate of a Party, are affected, use commercially reasonable efforts to procure access) for a reasonable number of the other Party's representatives to the site affected by the Force Majeure event.
- 14.5.2 A Party shall not be entitled to relief hereunder or, having become entitled, shall cease to be so entitled, and an event or circumstance originally constituting Force Majeure shall cease to be treated as Force Majeure, to the extent that the Party claiming Force Majeure relief fails to comply with Clause 14.5.1 above, including failure to grant access to the Party so requesting, unless such failure is itself caused by an event of Force Majeure. Prior to resumption of normal performance, the Parties shall continue to perform their obligations under this Agreement, to the extent not prevented by such event of Force Majeure.

### **15. LIABILITIES**

#### **15.1 Indemnification**

- 15.1.1 Customer Indemnified Parties. To the fullest extent permissible by Applicable Law, and without prejudice to the terms and conditions of any Access Agreement, Service Provider agrees to indemnify, defend and hold harmless Customer, its Affiliates, Customer's direct and indirect equity holders and each of their respective officers, directors, employees, agents, successors, assigns, contractors

and subcontractors, including any Transporter (collectively, “**Customer Indemnified Parties**”) from and against any and all Claims relating to:

- (a) any Claims arising under Clause 8.3, Clause 12.2 or Clause 18.1.2;
- (b) any loss or damage to any physical property, facilities or other assets of any of the Service Provider Indemnified Parties; or
- (c) any sickness, disease, death or personal injury to any of the officers, directors, employees or agents of Service Provider or any of the Service Provider Indemnified Parties;

including any such Claims arising out of any of the Customer Indemnified Parties’ negligence, but excluding Claims which arise from or relate to:

- (i) any act or incident involving the fraud of the Customer Indemnified Parties;
- (ii) the Gross Negligence or Willful Misconduct of any of the Customer Indemnified Parties; or
- (iii) any matters for which Customer owes indemnification obligations under Clause 15.1.2.

For the avoidance of doubt, for the purpose of the indemnity given by Service Provider to the Customer Indemnified Parties in this Clause 15.1.1, Service Provider waives any rights Service Provider has or may have to limit its liability under any Applicable Law.

15.1.2 Service Provider Indemnified Parties. Subject to appropriation of the requisite funds by Customer’s Board to satisfy the following obligation, and to the fullest extent permissible by Applicable Law, Customer agrees to indemnify, defend and hold harmless Service Provider and its Affiliates, Service Provider’s direct or indirect equityholders and each of their respective officers, directors, employees, agents, successors, assigns, contractors and subcontractors of each Service Provider and their Affiliates (collectively, “**Service Provider Indemnified Parties**”) from and against any and all Claims relating to:

- (a) any Claims arising under Clause 3.3.2, Clause 3.3.3, Clause 3.5.2, Clause 8.2, Clause 10.2.4, Clause 12.1 or Clause 18.1.2;
- (b) any loss or damage to any physical property, facilities or other assets, including the Gas and LNG, of any of the Customer Indemnified Parties;
- (c) any sickness, disease, death or personal injury to any of the officers, directors, employees or agents of Customer or any of the Customer Indemnified Parties; or
- (d) any loss or damage to (i) any Tanker Truck utilized by any Customer Indemnified Party in connection with the performance of this Agreement

or (ii) any Upstream Facilities or any facilities downstream of the NGL Delivery Point;

including such Claims arising out of any of the Service Provider Indemnified Parties' negligence (other than described in clause (iii) below), but excluding Claims which arise from or relate to:

- (i) any act or incident involving the fraud of any of the Service Provider Indemnified Parties;
- (ii) the Gross Negligence or Willful Misconduct of any of the Service Provider Indemnified Parties; or
- (iii) solely with respect to clause (d) above, the negligence of any of the Service Provider Indemnified Parties.

15.1.3 Third Party Indemnity by Service Provider. To the fullest extent permissible by Applicable Law, Service Provider agrees to indemnify, defend and hold harmless the Customer Indemnified Parties from and against any and all Claims relating to any:

- (a) sickness, disease, death or personal injury to any Third Party (other than any of the Customer Indemnified Parties or Service Provider Indemnified Parties); or
- (b) loss or damage to any property, real or personal, of any Third Party (other than any of the Customer Indemnified Parties or Service Provider Indemnified Parties),

in each case, to the extent arising from any act, error, omission or default of Service Provider.

15.1.4 Third Party Indemnity by Customer. Subject to appropriation of the requisite funds by Customer's Board to satisfy the following obligation, and to the fullest extent permissible by Applicable Law, Customer agrees to indemnify, defend and hold harmless the Service Provider Indemnified Parties from and against any and all Claims relating to any:

- (a) sickness, disease, death or personal injury to any Third Party (other than any of the Customer Indemnified Parties or Service Provider Indemnified Parties); or
- (b) loss or damage to any property, real or personal, of any Third Party (other than any of the Customer Indemnified Parties or Service Provider Indemnified Parties),

in each case, to the extent arising from any act, error, omission or default of Customer or the Transporter.

15.1.5 If Service Provider becomes aware of a Claim in relation to which Service Provider may seek indemnification from Customer pursuant to Clauses 15.1.2 or 15.1.4,

then Service Provider shall promptly give notice of such Claim to Customer. Where such Claim is, or may be, a Claim by a Third Party against a Service Provider Indemnified Party, Service Provider shall take reasonable directions from Customer in relation to the conduct and defense of such Claim, including reasonable directions in relation to choice of and instruction of counsel and potential counterclaims.

- 15.1.6 If Customer becomes aware of a Claim in relation to which Customer may seek indemnification from Service Provider pursuant to Clauses 15.1.1 or 15.1.3, then Customer shall promptly give notice of such Claim to Service Provider. Where such Claim is, or may be, a Claim by a Third Party against a Customer Indemnified Party, Customer shall take reasonable direction from Service Provider in relation to the defense and conduct of such Claim, including reasonable directions in relation to the choice of and instruction of counsel and potential counterclaims.
- 15.1.7 No Party may accept liability for, or settle, any Claim by a Third Party if that Party intends to seek indemnification under Clauses 15.1.1 or 15.1.3 (in the case of Customer) or Clauses 15.1.2 or 15.1.4 (in the case of Service Provider) in respect of that Claim, unless that Party has first sought and obtained the prior written agreement of the Party against whom such indemnity is sought, such agreement not to be unreasonably withheld or delayed. Any acceptance of liability by a Party, or settlement by a Party, for a Claim by a Third Party in breach of this Clause 15.1.7 shall render unenforceable that Party's right to seek re-imbursement or indemnification under Clauses 15.1.1 or 15.1.3 (in the case of Customer) or Clauses 15.1.2 or 15.1.4 (in the case of Service Provider).

## **15.2 Exclusions**

No Party shall be liable to any other Party under this Agreement for or in respect of:

- 15.2.1 any actual or anticipated: (i) loss of income or profits; (ii) loss of revenue; (iii) loss of use; (iv) loss of production; (v) loss of contract; (vi) loss of goodwill; (vii) increased cost of working; or (viii) loss of business opportunity, in each case, except to the extent the same constitute direct damages or are otherwise reasonably foreseeable;
- 15.2.2 any Claim, demand or action made or brought against that other Party by a Third Party, except as set forth in Clause 15.1;
- 15.2.3 any indirect, unforeseeable or consequential loss or damages, in each case, except to the extent the same constitute direct damages or are otherwise reasonably foreseeable; or
- 15.2.4 exemplary or punitive damages, incurred by a Party or any other Person,

in each case, all or any part of which arises out of or relates to the performance or breach of this Agreement, or to any act or omission related to this Agreement, whether in contract, tort (including negligence or breach of duty), strict liability or any other doctrine in contract, law or equity except to the extent caused by the Gross Negligence or Willful Misconduct of a Party. For clarity, except as expressly provided in this clause, the forgoing

limitations shall apply with respect to all claims, damages or remedies pursued by any Party in respect of matters arising under this Agreement.

## 16. TERMINATION

### 16.1 Termination Events

If any of the following circumstances (each an “**Early Termination Event**”) occurs, the applicable Party shall have the right to terminate this Agreement by providing Notice to the other Party, in accordance with Clause 16.2:

- (a) in respect of either Party, if an Insolvency Event with respect to the other Party has occurred;
- (b) in respect of Service Provider, if, as of June 30, 2023, any of the following events shall have occurred or circumstances shall exist: (i) the State of Alaska Department of Natural Resources has not issued a non-exclusive easement and associated entry authorization with respect to the site at or near Deadhorse, Alaska on which the LNG Facility will be constructed; (ii) any approval or permit from an Authorized Authority required to commence construction of the LNG Facility has not been granted or issued, as applicable; or (iii) an Authorized Authority has issued an order or similar directive preventing or restricting, or any Person (other than Service Provider or its Affiliates) has commenced a proceeding before an Authorized Authority seeking to prevent or restrict, the construction or operation of the LNG Facility or the transactions contemplated by this Agreement or an Applicable Law has been enacted, entered, promulgated or enforced by an Authorized Authority that prohibits or makes illegal the construction or operation of the LNG Facility or the transactions contemplated by this Agreement; *provided that* (x) Service Provider must exercise its termination right under this Clause 16.1(b) on or before July 14, 2023 and (y) Service Provider will only be entitled to so exercise such termination right if it has used its commercially reasonable efforts to obtain the relevant approvals or permits from Authorized Authorities to commence construction of the LNG Facility;
- (c) in respect of Service Provider, if Customer fails to pay or cause to be paid any amount or amounts in the aggregate due under any invoice(s) to Service Provider under this Agreement that are in excess of \$5,000,000, for a period of forty-five (45) days or more following the due date of the relevant invoice;
- (d) in respect of Service Provider, if Customer fails to provide or maintain Performance Assurance as required pursuant to Clause 13.8;
- (e) in respect of Customer, if Service Provider fails to provide a Parent Guarantee as required pursuant to Clause 13.9;
- (f) in respect of either Party, as provided by Clause 18.2; or

- (g) in respect of Customer, if (x) a Major Gas Sale Event (as defined in the Gas Sales Agreement in effect as of the Effective Date) has occurred, (y) Producer has exercised its right to terminate the Gas Sales Agreement in respect of such Major Gas Sale Event as provided therein and (z) the Gas Sales Agreement has terminated in accordance with its terms; *provided* that
- (i) no termination under this Clause 16.1(g) shall be effective until after the expiration of Contract Year 10;
  - (ii) Customer may not exercise its termination right under this Clause 16.1(g) after the first (1<sup>st</sup>) anniversary of the date on which Producer notified Customer of its election to terminate the Gas Sales Agreement;
  - (iii) Customer will only be entitled to exercise its termination right under this Clause 16.1(g) if it has delivered Notice to Service Provider of the termination of the Gas Sales Agreement at least 180 days prior to the effectiveness of the proposed termination of this Agreement and Service Provider has not, prior to the effectiveness of the proposed termination of this Agreement, entered into arrangements to source Gas on behalf of Customer on terms that (x) reflect a commercially reasonable price (as determined based on pricing proposals from at least two (2) potential Gas suppliers), which price is not in excess of 125% of the price that Customer would have paid under the Gas Sales Agreement as of the time of the termination thereof, and (y) with respect to the other material terms thereof (e.g., quantity, cover provisions and indemnity), are not less favorable to Customer in any significant respect than those in effect under the Gas Sales Agreement as of the time of termination thereof, it being acknowledged and agreed that, if Service Provider does so source such Gas on behalf of Customer on such terms, then the term of this Agreement shall continue, the terms and provisions of this Agreement shall remain in full force and effect and Customer shall not have any further termination rights under this Clause 16.1(g); *provided further* that, if Service Provider does so source Gas on behalf of Customer as contemplated above, then, if requested by Service Provider, Customer shall enter into such documents as reasonably necessary or appropriate to memorialize such Gas sourcing arrangement (including, if applicable, any relevant amendment, modification or supplement to this Agreement); and
  - (iv) if (A) Customer has validly exercised its termination right under this Clause 16.1(g), (B) Service Provider has not sourced Gas on behalf of Customer as described above and (B) Customer has received one or more MVC Reduction Credits pursuant to Clause 3.5.2(b) that are available for application as provided in Clause 3.5.2(b)(iv), then, upon Notice by Service Provider to Customer prior to the effectiveness of such termination, Service Provider

may elect to extend the Term for a period of up to one (1) additional Contract Year, in which case this Agreement will not terminate until the expiration of such extension period, and, during which time, unless otherwise agreed by the Parties, the Minimum Volume Commitment shall be deemed to be the aggregate amount of the relevant MVC Reduction Credits and which shall be applied on a month-by-month basis consistent with the Annual Delivery Program for then-current Contract Year.

## **16.2 Termination Notice; Cure Period**

Upon the occurrence of an Early Termination Event, the Party with the right under Clause 16.1 to terminate this Agreement (“**Terminating Party**”) may give Notice thereof to the other Party specifying in reasonable detail the nature of such Early Termination Event. After the Terminating Party gives Notice of an Early Termination Event, unless the circumstances constituting the Early Termination Event have been fully remedied or have ceased to apply, the Terminating Party may (i), with respect to any Early Termination Event in Clause 16.1(a), Clause 16.1(b), Clause 16.1(f) and Clause 16.1(g), terminate this Agreement with immediate effect by giving Notice of such termination to the other Party (subject to the express provisions of the relevant Clause) and (ii), with respect to any Early Termination Event other than that in Clause 16.1(a), Clause 16.1(b), Clause 16.1(f) and Clause 16.1(g), at any time after the expiration of a period of thirty (30) days from the date of Notice of the relevant Early Termination Event, terminate this Agreement with immediate effect by giving Notice of such termination to the other Party.

## **16.3 Effect of Termination**

Termination of this Agreement pursuant to Clause 16.1 or any other provision of this Agreement shall be without prejudice to any other rights and remedies of either Party arising hereunder or by Applicable Law or otherwise which arose or accrued prior to or as a result of such termination or by reason of default of either Party. All rights or remedies which may have accrued to the benefit of any Party (and any of this Agreement’s provisions necessary for the exercise of such accrued rights or remedies) prior to the termination or expiration of this Agreement will survive such termination or expiration.

## **16.4 Account Settlement on Termination**

16.4.1 Positive Customer’s Inventory. If upon the expiration or termination of this Agreement, Customer’s Inventory has a positive balance, Customer shall arrange to lift such positive balance at the LNG Delivery Point within fifteen (15) days thereafter. If such arrangements are not so made, Service Provider shall take title to such positive balance free and clear of any Encumbrances, sell such quantities, and credit to Customer’s account the net proceeds from such sale, less actual and reasonable transportation costs, marketing and other relevant costs, expenses and fees.

16.4.2 Negative Customer’s Inventory. If, upon the expiration or termination of this Agreement, Customer’s Inventory has a negative balance, Customer shall arrange to deliver such negative balance at the Gas Delivery Point within fifteen (15) Gas Days thereafter. If such delivery is not so made, Service Provider shall purchase



replacement Gas, for which Customer shall reimburse Service Provider the price paid by Service Provider for the negative balance.

- 16.4.3 Cash Settlement. Without limiting Clauses 16.4.1 and 16.4.2 the Parties may mutually agree to settle in cash any positive or negative balances of Customer's Inventory owed to the each other under such Clauses 16.4.1 and 16.4.2.

## **17. INSURANCE**

### **17.1 General**

Service Provider and Customer shall obtain and maintain, or shall cause to be obtained and maintained, the relevant insurance described in this Clause 17 and Schedule F with an insurance company or companies licensed to do business as required by Applicable Law and rated A-, VIII or better by A.M. Best. Service Provider and Customer may carry such additional insurance as it may deem necessary.

### **17.2 Service Provider's Insurance**

Service Provider shall be responsible for obtaining and maintaining insurance of the kinds and limits enumerated on Schedule F. Such insurance shall be primary to any insurance held by Customer and shall reflect the liability and risk assumed by Service Provider under the indemnity regime set out in Clause 15. Upon request by Customer but in no event more than once each Contract Year, Service Provider shall furnish to Customer a certificate of insurance evidencing that the required insurance coverages have been obtained.

### **17.3 Customer's Insurance**

Customer shall be responsible for obtaining and maintaining insurance of the kinds and limits enumerated on Schedule F, including causing any Transporter to obtain and maintain, insurance as required under the Services Manual and any Access Agreement in accordance with Clause 3.3.3. Such insurance shall reflect the liability and risk assumed by Customer under the indemnity regime set out in Clause 15. Upon request by Service Provider but in no event more than once each Contract Year, Customer shall furnish (and shall cause a relevant Transporter to furnish) to Service Provider a certificate of insurance evidencing that the required insurance coverages have been obtained.

## **18. REPRESENTATIONS AND WARRANTIES**

### **18.1 Representations and Warranties**

- 18.1.1 Representations and Warranties. Each Party hereby represents and warrants to the other Party that as of the date hereof and throughout the Term:

- (a) it is an entity duly organized, validly existing, and in good standing under the laws of the jurisdiction of its organization;
- (b) the actions necessary to authorize the execution and delivery of this Agreement and the performance of its obligations hereunder have been duly taken;

- (c) this Agreement has been duly executed and delivered by a duly authorized officer or other representative of such Person and constitutes the legal, valid, and binding obligation of such Person, enforceable in accordance with its terms, except as such enforceability may be affected by applicable bankruptcy, reorganization, insolvency, moratorium, or other similar law affecting creditors' rights generally, and except that the availability of equitable remedies is subject to judicial discretion;
- (d) no consent or approval of any other Person is required in connection with the execution, delivery, and performance of the Agreement by such Party, other than such consent or approval to be procured in due course in accordance with the terms hereunder;
- (e) the execution, delivery, and performance of this Agreement does not violate the organizational documents of such Party or any material agreement or any Applicable Laws by which it or its assets are bound; and
- (f) it has no right under the laws of any jurisdiction to claim or benefit from any immunity (whether characterized as state immunity, sovereign immunity, act of state, or otherwise) from jurisdiction, suit, action, service, execution, attachment, set off, provisional measures, or orders, or other legal process (whether in aid of execution, before award or judgment, or otherwise).

18.1.2 Indemnity. Service Provider shall defend, indemnify and hold Customer harmless from and against any and all Claims arising from or related to any breach by Service Provider of the representations and warranties set forth in this Clause 18.1. Subject to appropriation of the requisite funds by Customer's Board to satisfy the following obligation, Customer shall defend, indemnify and hold Service Provider harmless from and against any and all Claims arising from or related to any breach by Customer of the representations and warranties set forth in this Clause 18.1.

## 18.2 Business Conduct

18.2.1 In connection with this Agreement, each Party hereby represents, warrants and covenants to the other Party that (a) it is knowledgeable of, and will comply with, all anti-bribery and anti-corruption laws applicable to its business operations and to the performance of its obligations hereunder; (b) it has not and will not offer, promise, give or authorize the payment of anything of value (e.g. cash or cash equivalents, gifts, travel and entertainment, stock, offers of employment, etc.), directly or indirectly, to any Government Official with the intention of inducing him or her to engage in improper or unlawful conduct or to secure an improper business advantage; (c) it has not and will not make facilitation payments or "grease payments" to Government Officials or others in a position of authority to expedite routine non-discretionary government or lawful actions (e.g. processing permits, visas and licenses, scheduling inspections, clearing customs, etc.); and (d) it has not and will not offer, promise, give, request, receive or accept anything of value, directly or indirectly, to or from any person for the purpose of influencing, inducing or rewarding the improper performance of an act or decision. For purposes of this section, the term "**Government Official**" means any (i) officer or employee of government, department, agency, or instrumentality of a government

(government-controlled enterprise); (ii) officer or employee of a public international organization; (iii) political party or party official; (iv) candidate for political office; or (v) other person acting in an official capacity.

- 18.2.2 Each Party hereby represents, warrants and covenants to the other Party that it is knowledgeable of Economic Sanctions applicable to its business operations and to the performance of its obligations hereunder and it will not present business to the other Party, or otherwise provide services or engage in transactions on the other Party's behalf, that (a) involve persons, countries or dealings targeted by Economic Sanctions, or (b) cause the other Party to be in violation of Economic Sanctions. For purposes of this section, "**Economic Sanctions**" means any sanction, prohibition or restriction imposed by the United States of America, including without limitation, the Office of Foreign Assets Control of the US Department of the Treasury and the United States Department of State.
- 18.2.3 If a Party knows of, or reasonably suspects, a breach of this Clause 18.2 by such Party or any of its officers, directors, managers, employees, representatives, agents, contractors or subcontractors in respect of this Agreement, it shall disclose, within a reasonable period, the facts and circumstances of the breach to such other Party and such other Party may terminate this Agreement and such breaching Party shall indemnify (as to Customer, which indemnity is subject to appropriation of the requisite funds by Customer's Board), defend and hold harmless such other Party against any and all claims, including return of any payment, losses, damage, costs and fines whatsoever suffered by such other Party resulting from any breach of this Clause 18.2. Notwithstanding expiration or termination of this Agreement, each Party agrees to fully cooperate, for the duration of the applicable statute of limitations period, in the investigation of the facts and circumstances surrounding such breach. Such cooperation shall include permitting such other Party to inspect, review, copy, and retain relevant documentation of such Party and making available to such other Party persons with knowledge or having reason to know the facts or circumstances of or surrounding the breach.

## 19. CONFIDENTIALITY

### 19.1 Definition

The term "**Confidential Information**" shall mean the terms of this Agreement and all information, data and technology received by a Party from a disclosing Party relating to the LNG Facility (including in connection with the determination, arbitration, or settlement of any Dispute); *provided that* Confidential Information shall not include information, technology, or data:

- (a) which is available or which becomes available to the public (other than (i) as a result of a disclosure by the Person asserting the right to disclose the Confidential Information or (ii) making this document public in the course of Customer's Board evaluating and approving this Agreement in public session in accordance with the rules and regulations set forth in Alaska's Open Meetings Act (AS 44.62.310-.312));
- (b) which was known or available to the receiving Party on a non-confidential basis prior to disclosure by the disclosing Party;

- (c) which is independently developed by such Party without the use of Confidential Information; or
- (d) which becomes available on a non-confidential basis from a source not bound by confidentiality obligations to either Party or their respective Affiliates.

## 19.2 Obligation

Each Party agrees not to disclose to any Person who is not a Party any Confidential Information during the Term of this Agreement and for a period of five (5) years thereafter; *provided that* a Party may disclose Confidential Information received by it as follows:

- (a) to the extent required (i) in compliance with Applicable Laws (except as set forth in Clause 19.2(b)), (ii) by an order of any court, or (iii) by the rules and regulations of any applicable stock or securities exchange; *provided that* such Party shall afford the other Party reasonable opportunity and reasonably cooperate with the other Party, to the extent not in violation of any such request or order from the requesting Authorized Authority and at the other Party's cost and expense, to prevent or limit such disclosure (including by obtaining a protective order or other reasonable assurance of confidential treatment for the information required to be disclosed);
- (b) by Customer to a Person making a request of Customer's records in accordance with Alaska's Public Records Act (AS 40.25.100-.295), *provided that* (x) without limiting the application of subsection (y) below, any such disclosure shall be limited only to the information disclosable under Applicable Law, and (y) prior to making any such disclosure, Customer shall (i) provide written notice (email being sufficient) to Service Provider of the Confidential Information to be disclosed (including copies of the relevant portions of the relevant documents) as soon as reasonably practicable in advance of the date it is required to make the disclosure, (ii) consult and cooperate with Service Provider on redacting commercially sensitive information or other proprietary information Service Provider wishes to not disclose as a matter of public record, acting reasonably, and (iii) to the extent such measures are not sufficient to prohibit disclosure of such information, afford Service Provider a reasonable opportunity to seek an appropriate protective order or injunction relief;
- (c) to an Affiliate of such Party, *provided that* such Affiliate has a bona fide business need for such information and agrees to maintain confidentiality on terms no less stringent than those provided in this Agreement;
- (d) by Service Provider to (i) any bona fide prospective or actual Lenders for the LNG Facility or any other bona fide prospective or actual lender or other Person providing any debt financing to Service Provider or any of its Affiliates, including in respect of a credit facility, bond or note issuance or other debt financing arrangement, (ii) any bona fide prospective or actual purchaser of the LNG Facility or (iii) any other Person to the extent

reasonably necessary to carry out Service Provider's performance of this Agreement, including any Gas suppliers, pipeline operators or Transporters; *provided that* each such Person receiving the Confidential Information agrees to maintain confidentiality on terms no less stringent than those provided in this Agreement;

- (e) by Customer to its bona fide prospective or actual Gas suppliers, pipeline operators or Transporters, in each case only to the extent required for scheduling or operational coordination under Customer's respective contracts with such Persons; *provided that* such Person agrees to maintain confidentiality on terms no less stringent than those provided in this Agreement;
- (f) to accountants, auditors, legal advisors, other professional consultants, or underwriters; *provided that* such disclosure is solely to assist the purpose for which the aforesaid were so engaged and such Persons are under an independent legal obligation to keep such information confidential or otherwise agree to maintain confidentiality on terms no less stringent than those provided in this Agreement;
- (g) without limitation of Clause 23.10, to bona fide prospective assignees of a Party's interest in this Agreement; and
- (h) in connection with the enforcement of this Agreement before any court or arbitral panel.

Each Party remains liable hereunder for breach of confidentiality by any Person to whom it discloses Confidential Information received by it.

### **19.3 No Obligation to Disclose**

Nothing in this Agreement shall require a Party to disclose any of its proprietary technology or information to the other Party.

### **19.4 Publicity**

Each Party agrees to (a) consult with the other Party before issuing any press release or public statement announcing the execution and delivery of this Agreement, (b) provide to the other Party for review a copy of any such press release or public statement and (c) not issue any such press release or public statement prior to providing the other Party with a reasonable period of time to review and comment on such press release or public statement and obtaining the written approval of the other Party.

## **20. GOVERNING LAW**

This Agreement shall be governed by and interpreted in accordance with the laws of the State of Alaska, excluding any choice of law rules that would refer the matter to determination under laws of another jurisdiction. THE PARTIES DISCLAIM THE APPLICABILITY OF THE UNITED NATIONS CONVENTION FOR THE INTERNATIONAL SALE OF GOODS TO OR IN CONNECTION WITH THIS AGREEMENT.

## 21. DISPUTE RESOLUTION

### 21.1 Negotiations

21.1.1 Generally. Each Party shall give Notice to the other Party of any dispute, controversy or Claim, whether based on contract, tort, statute, regulation or otherwise, between the Parties arising out of this Agreement including the interpretation, performance or non-performance of this Agreement, the validity, enforceability or termination, or regarding a breach thereof (a “**Dispute**”). If the Parties are unable to resolve such Dispute through discussion, then a Party may elect, by delivering Notice to the other Party, to refer such Dispute to a senior officer of each Party who has the power and authority to bind the Party. Such senior officers shall, acting in good faith and understanding of their mutual interests, attempt to reach a just and equitable solution satisfactory to the Parties. At least one meeting of such senior officers shall take place within fourteen (14) Business Days after delivery of the notice of Dispute. If the senior officers agree upon a resolution of the Dispute, such resolution shall be binding upon the Parties and will be memorialized in a written settlement and release agreement mutually acceptable to the Parties.

21.1.2 Non-Resolution. If any Dispute is not resolved between the Parties pursuant to Clause 21.1.1 within thirty (30) Days from the date on which a Party receives written notification from another Party pursuant to Clause 21.1.1, or such shorter period as is otherwise explicitly provided for under this Agreement, then such Dispute shall be resolved:

- (a) by an Expert in accordance with Clause 21.3 if the applicable provision of this Agreement giving rise to the Dispute specifically referred to resolution by an Expert or the Dispute is otherwise of a technical nature; or
- (b) by submission to arbitration in accordance with Clause 21.2.

### 21.2 Arbitration

21.2.1 Generally. All Disputes, other than those which are referred for Expert determination pursuant to Clause 21.3, shall be finally settled in accordance with the Rules of the American Arbitration Association in effect at the time, by three (3) impartial arbitrators; *provided, however*, that, if the Dispute is based on a claim valued less than one million U.S. Dollars (\$1,000,000), such arbitration shall be conducted by one (1) impartial arbitrator chosen by the Parties within thirty (30) Days of the respondent’s receipt of the Notice of arbitration or otherwise in accordance with such Rules if the Parties so fail to appoint. Each Party shall appoint a qualified arbitrator within thirty (30) Days of the respondent’s receipt of the Notice of arbitration. The two (2) arbitrators so appointed shall within fifteen (15) Days of the appointment of the second arbitrator, appoint a third arbitrator, who shall act as the presiding arbitrator. Should an arbitrator fail to be so appointed, then that arbitrator will be appointed in accordance with said Rules. Arbitration shall be in the English language and held in Fairbanks, Alaska unless another location is selected by mutual agreement of the Parties. The award rendered by the arbitrators shall include a statement of the reasons for the award, as well as an apportionment of the costs and expenses of the arbitrators as provided

in Clause 21.2.2, below, and shall be final and binding upon the Parties. The arbitrators shall apply the law specified in Article 20. The Parties agree that service of process for any action to enforce an award may be accomplished according to the procedures of Article 22 as well as any other procedure authorized by law.

21.2.2 Costs. Each Party shall bear the costs and expenses of all counsel, witnesses and employees retained by it. The costs and expenses of the arbitrators shall be apportioned between Service Provider and Customer in the manner specified by the arbitrators in the award.

21.2.3 Judgment. Judgment upon the award may be entered in any court having competent jurisdiction over the Party or the assets of the Party, or application may be made to such court for a judicial acceptance of the award and an order of enforcement, as the case may be. The Parties shall waive any right to punitive or other exemplary damages allowable by common law or statute.

21.2.4 Award. The award shall be rendered and promptly paid in US Dollars free of any deduction or offset.

21.2.5 Final. The arbitral award will be final and binding on the parties to the Dispute.

21.2.6 Survival. This Clause 21.2 shall survive the termination of this Agreement.

### **21.3 Expert Determination**

For Disputes of a technical nature that the Parties agree to resolve by an Expert, either Party may submit the matter for Expert resolution to such competent, impartial authority as the Parties may agree upon. No person shall be appointed to act as the Expert under this Clause unless qualified by education, experience and training to determine the matter in Dispute. The appointment of the Expert shall only take effect after agreement has been reached between the Parties and the appointing agency or the Expert as to the Expert's remuneration. The arrangement agreed on shall be clearly set out in writing and shall be part of the agreement between the Parties and the Expert. If the Parties cannot agree on the identity of the Expert within twenty-one (21) days following the Notice of a technical dispute by a Party, either Party may request the American Arbitration Association to appoint, in accordance with its rules, a suitably qualified Person to act as the Expert to determine the matter. If the Expert is appointed but is unable or unwilling to determine the matter, another Expert must be appointed in the same manner as the previous Expert.

21.3.1 The Expert may request data, information or submissions respecting relevant information the Expert finds necessary for his determination, and the Parties shall comply promptly with such requests. All information supplied to the Expert in writing by a Party shall be copied simultaneously to the other Party.

21.3.2 The Expert shall make a determination in writing and in such determination give reasons for the determination, not later than thirty (30) days after acceptance of the appointment and shall ignore data, information and submissions supplied and made after such thirty (30) days unless the same are furnished in response to a specific request.

- 21.3.3 The Expert shall be deemed not to be an arbitrator but shall render a determination as an Expert and the law or legislation relating to arbitration shall not apply to such Expert or the determinations or the procedure by which such determinations are reached, except that the Expert's ruling may be enforced in the same manner as an arbitration award.
- 21.3.4 The determination of the Expert shall be final and binding upon the Parties save in the event of fraud, mistake or failure by the Expert to disclose any relevant interest or duty in accordance with this Clause 21.3.
- 21.3.5 Each Party shall bear the costs and expenses of all counsel, witnesses and employees retained by it; the costs and expenses of the Expert shall be apportioned between Service Provider and Customer in a manner proportionate to the determination made by the Expert. The determination shall be reasoned and the reasoning shall in any event address the proportions in which the Parties should bear the Expert's costs.

#### **21.4 Availability of Remedies**

The Parties acknowledge and agree that damages would not be an adequate remedy for a breach by a Party of the provisions of this Agreement. For this reason, among others, the Parties will be irreparably damaged in the event that this Agreement is not deemed to be specifically enforceable or any other legal or equitable remedy or relief is deemed not to be available, and the Parties hereby agree that this Agreement shall be specifically enforceable and that all other legal and equitable remedies and reliefs shall be available. Such remedies and reliefs shall be cumulative and not exclusive and shall be in addition to any other remedies and reliefs which the Parties may have.

#### **21.5 Continued Performance**

Except as otherwise expressly contemplated hereby, during the continuation of any Dispute arising under this Agreement, the Parties shall continue to perform their respective obligations under this Agreement, including prompt and timely payment of all amounts due hereunder and delivery of LNG as required hereunder, until a final non-appealable resolution is reached.

### **22. NOTICES**

#### **22.1 Form of Delivery; Addresses for Service**

22.1.1 All Notices authorized or required to be given by one Party to another under this Agreement shall be in writing in the English language and delivered by pre-paid mail, by hand or by electronic mail transmission, unless otherwise specifically provided for in this Agreement.

22.1.2 Notices shall be given at the following addresses

To Service Provider:

**For nominations:**



Attn: Travis Renk  
3800 Centerpoint Drive, Suite 1400  
Anchorage, AK 99503  
Email: trenk@harvestmidstream.com

**For invoicing:**

Attn: Travis Renk  
3800 Centerpoint Drive, Suite 1400  
Anchorage, AK 99503  
Email: trenk@harvestmidstream.com

**For legal notices:**

Attn: Andrew Limmer  
3800 Centerpoint Drive, Suite 1400  
Anchorage, AK 99503  
Email: alimmer@harvestmidstream.com

with copy to:

Attn: Legal Department  
1111 Travis Street  
Houston, TX 77002  
Email: legal@harvestmidstream.com

To Customer:

**For nominations:**

Attn: Wes Smith, Controller  
2525 Phillips Field Road  
Fairbanks, AK 99709  
Email: wsmith@interiorgas.com

**For invoicing:**

Attn: Accounts Payable  
2525 Phillips Field Road  
Fairbanks, AK 99709  
Email: invoices@interiorgas.com

**For legal notices:**

Attn: Dan Britton, General Manager  
2525 Phillips Field Road  
Fairbanks, AK 99709  
Email: dwbritton@interiorgas.com

with copy to:

Attn: Zane Wilson, General Counsel  
CSG Inc.  
714 Fourth Avenue  
Fairbanks, AK 99701  
Email: zane@alaskalaw.com

## **22.2 Change of Contact Information**

Either Party may change its mail address, electronic mail address and telephone numbers and nominated contacts by job titles for the receipt of Notices at any time and from time to time by giving Notice ten (10) days in advance of the change to the other Party in accordance with the provisions of this Article 22.

## **22.3 Effective Time of Notice**

22.3.1 A Notice given by one Party to the other in accordance with the foregoing provisions of this Article 22 shall be deemed to be received by the other Party as follows:

- (a) if delivered by hand or by courier:
  - (i) during business hours on a Business Day, on the day and at the time at which it is received at that Party's address; or
  - (ii) if delivered otherwise than during business hours on a Business Day, then at 10:00 am on the next occurring Business Day after the delivery;
- (b) if transmitted by e-mail:
  - (i) during business hours on a Business Day, on the day and at the time at which the e-mail is actually received in the intended recipient's inbox in a readable form; or
  - (ii) if delivered otherwise than during business hours on a Business Day, then at 10:00 am on the next occurring Business Day after the day on which the e-mail is actually received in the intended recipient's inbox in a readable form.

22.3.2 Without limiting the meaning of the word "received" for the purpose of the preceding paragraph, a notice which is delivered by hand or by courier shall be deemed to have been received at a Party's address if it is placed in any receptacle normally used for the delivery of post to the address of that Party.

22.3.3 Any notice given by e-mail shall be subsequently confirmed by letter, unless otherwise agreed, but without prejudice to the validity of the original notice.

## **23. MISCELLANEOUS**

### **23.1 Costs and Expenses**

Each Party shall bear its own fees and expenses incidental to the preparation and negotiation of this Agreement and the actions and transactions contemplated by this Agreement.

### **23.2 Survival**

The expiry or termination of this Agreement shall not discharge or release any Party from any of its liabilities or obligations accrued at the time of such expiry or termination or from any of its liabilities or obligations that expressly continue beyond or arise out of such expiry or termination of this Agreement.

### **23.3 Rights and Remedies**

Except where this Agreement expressly provides to the contrary, the rights and remedies contained in this Agreement are cumulative and not exclusive of any rights and remedies provided by Applicable Law.

### **23.4 Waivers**

23.4.1 No waiver by any Party of the performance, or any default in the performance by the other Party, of any provision, condition or requirement herein shall be a waiver of, or in any manner release such other Party from performance of, such provision, condition or requirement unless such waiver is executed in writing by the Party providing such waiver, and such waiver shall not be, and shall not be considered to be, a waiver of any other default or provision, condition or requirement herein, nor shall any such waiver be a waiver of, or in any manner a release of, such other Party from future performance of such provision, condition or requirement, unless it expressly so states.

23.4.2 Any delay in exercising or failure to exercise any right, remedy, power or privilege hereunder on the part of any Party shall not operate as a waiver thereof nor impair the exercise of any such right, remedy, power or privilege or any other right, remedy, power or privilege accruing to such Party thereafter.

23.4.3 The failure of a Party to perform its obligations hereunder shall not release the other Party from the performance of its obligations.

### **23.5 Waiver of Sovereign Immunity; Customer's Board Appropriations**

23.5.1 Customer agrees that it is subject to civil suit for any negligence or breach of contract obligations under this Agreement. Without limiting any of the other provisions in Clause 23.5, to the extent that Customer may be entitled to claim sovereign, governmental, or municipal immunity from any liability in such civil or commercial suit by Service Provider, Customer hereby agrees not to claim, and hereby waives such sovereign, governmental, or municipal immunity.

- 23.5.2 Each Party irrevocably acknowledges and accepts that this Agreement and all agreements entered into in connection with this Agreement, and the performance or non-performance of its obligations under this Agreement are commercial rather than public or governmental acts.
- 23.5.3 In any event, each Party waives, in relation to any Disputes arising out of or in connection with this Agreement under any law or in any jurisdiction, regardless of whether the Dispute relates to acts of a sovereign or governmental character, any claim it may have or may acquire to immunity on the grounds of sovereignty or otherwise (for itself and its property, present or subsequently acquired) from:
- (a) the jurisdiction of the arbitral tribunal constituted pursuant to this Agreement, any court of competent jurisdiction, and the service and pursuit of any proceedings before that arbitral tribunal, and those courts;
  - (b) procedure privileges relating to the obligation to disclose documents or information;
  - (c) any relief, before or after proceedings have been commenced, including but not limited to orders for injunction, specific performance, or recovery of land; and
  - (d) any set off, attachment or execution or enforcement of a judgement or arbitral award against its assets (including land and other properties) or revenues or, in an action in rem, for the arrest, detention or sale of any of its assets (including land and other properties) and revenues irrespective of the use or intended use thereof, whether commercial or otherwise, including without prejudice to the generality of sovereign property.
- 23.5.4 For the avoidance of doubt and without prejudice to Clause 23.5.3, each Party hereby irrevocably waives any claim to immunity in regard to any proceedings to enforce any arbitral award rendered by an arbitral tribunal constituted pursuant to this Agreement, including, without limitation, immunity from service of process, immunity from jurisdiction of any court and immunity of any property from execution.
- 23.5.5 Each of the Parties acknowledges and agrees that Customer's indemnification obligations hereunder may be subject to the annual appropriations process of Customer's Board. Without limitation of the foregoing, with respect to each Contract Year during the Term of this Agreement, Customer shall use its best efforts to cause Customer's Board to validly, fully and unconditionally approve and authorize, through its appropriations process for the relevant Contract Year (or portion thereof), (i) the full, complete and timely performance by Customer of all of its covenants, agreements and other obligations under this Agreement, including its obligations to make any payments of Deficiency Fees as and when required hereunder and its indemnification obligations due and owed to the Service Provider Indemnified Parties hereunder, and (ii) without limitation of the foregoing, the full, complete and timely assumption, payment, fulfilment and discharge by Customer of any and all of its established liabilities arising under this Agreement.

### **23.6 No Third Party Beneficiaries**

This Agreement is for the sole and exclusive benefit of the Parties and shall not create a contractual relationship, cause of action or any right in favor of Third Parties. No Person that is not a Party to this Agreement shall have any right to rely upon, make any claim or otherwise seek to enforce, whether directly or indirectly, any term of this Agreement.

### **23.7 Amendments**

Except as otherwise expressly provided in Clause 16 hereof, no amendment, supplement, modification or waiver or termination of this Agreement (and, unless otherwise specified, no consent or approval by any Party) is, in any such case, binding upon a Party unless executed in writing by the Party to be bound.

### **23.8 Successors and Assigns**

This Agreement will inure to the benefit of and be binding upon the respective successors and permitted assigns of the Parties.

### **23.9 Severability**

In the event any provision of this Agreement or the application of any provision hereof to any Party or set of circumstances is held illegal, invalid, or unenforceable, then the remaining provisions of this Agreement and the application of such provision to any other Party or set of circumstances will not be affected, impaired, or invalidated and will remain in full force and effect and will continue to be binding on the Parties. In the event of any such illegality, invalidity, or unenforceability, the Parties agree to revise or reform this Agreement so as to give effect to the original intent of the Parties to the extent possible.

### **23.10 Assignment; Financing**

23.10.1 By Customer. Customer may not assign, transfer or sublet its rights or obligations under this Agreement without the prior written consent of Service Provider; *provided, however*, that Customer may freely assign its rights and obligations under this Agreement (without the consent of Service Provider but upon Notice to Service Provider) to any transferee that acquires all or substantially all of Customer's gas distribution assets and business (or any Affiliate thereof), provided such Person has capitalization and a balance sheet that is at least comparable to that of Customer in all material respects.

23.10.2 By Service Provider. Service Provider may not assign, transfer or sublet its rights or obligations under this Agreement without the prior written consent of Customer; *provided, however*, that Service Provider may freely assign this Agreement as follows, in each case, without the consent of Customer but upon Notice to Customer: (a) Service Provider may freely assign its rights and obligations under this Agreement to any of its Affiliates, provided that the Affiliate has capitalization and a balance sheet that is at least comparable to that of Service Provider in all material respects; (b) Service Provider may freely assign its rights and obligations under this Agreement to any transferee of the LNG Facility (or any Affiliate thereof) as part of a Facility Sale consummated as provided in Clause 23.12 and

(c) Service Provider may freely assign its rights under this Agreement to any Lenders as security in connection with the financing of the LNG Facility.

### **23.11 Financing**

Service Provider may assign, mortgage, or pledge all or any of its rights, interests, and benefits under this Agreement to one or more banks, financial institutions or other financing parties (“**Lenders**”) to secure payment of any indebtedness or working capital incurred or to be incurred by Service Provider or any of its Affiliates, including any such indebtedness incurred in connection with the acquisition, construction, procurement, financing, refinancing and operation of any portion of the LNG Facility or any modifications or expansions thereto or in respect of any secured credit facility of Service Provider or any of its Affiliates. Such an assignment shall not relieve Service Provider of any liabilities or obligations hereunder. Customer shall provide to the Lenders to whom such indebtedness is owed a consent to assignment or similar agreement in such form as may be reasonably required by the Lenders, covering matters that are customary in financings of the applicable type, which, among other things, shall authorize the Lenders, as a secured party, to exercise all rights of Service Provider under this Agreement, and to subsequently assign such rights in connection therewith without the consent of Customer. Moreover, Customer agrees to enter into direct agreements with such Lenders, as reasonably required by the Lenders, covering matters that are customary in financings of this type, including Lender assignment or security rights with respect to this Agreement, direct notices to Lenders, step-in/step-out rights, access by Lenders’ representative, deferral of Customer’s rights to terminate this Agreement in certain circumstances and other matters applicable to such financing. In this regard, Customer shall cooperate with Service Provider and its Affiliates in their efforts to obtain such financing, including by supplying information and documentation reasonably requested by the Lenders and to take such other actions as the Lenders may reasonably request.

### **23.12 LNG Facility Sale Event**

23.12.1 Subject to Clause 23.12.5, to the extent that Service Provider wishes to sell all or substantially all of the assets comprising the LNG Facility (“**Facility Sale**”) to a Third Party, other than a sale to an Affiliate of Service Provider, such Facility Sale shall be subject to the procedure set forth in Clause 23.12.2 through Clause 23.12.4. If Service Provider elects to conduct a marketed process with respect to a Facility Sale, then Service Provider shall provide Customer written notice thereof prior to soliciting any final bids in respect of such Facility Sale and shall otherwise use its commercially reasonable efforts to include Customer or one of its Affiliates in such process so that Customer or such Affiliate has an opportunity to submit a bid in connection therewith (provided that Service Provider shall have no obligation to accept such bid). For clarity, the foregoing shall not apply with respect to any unsolicited offer or other proprietary transaction negotiated between Service Provider and a third party.

23.12.2 Without limitation of Clause 23.12.1, if Service Provider proposes to engage in a Facility Sale, Service Provider shall deliver written notice to Customer of a proposed sale (“**ROFR Sale Notice**”) prior to consummating any such Facility Sale. The ROFR Sale Notice shall include the identity of the prospective buyer (“**Buyer**”) and shall be accompanied by the material terms and conditions of the proposed Facility Sale, the cash consideration (the “**ROFR Price**”) to be paid to

Service Provider, a copy of any written offer and/or any proposed or negotiated documentation to effectuate the proposed Facility Sale (the “**Purchase Offer**”). The consideration for a Purchase Offer must be cash, and by its terms, the Purchase Offer shall be expressly subject to Customer’s exercise of its rights pursuant to this Clause 23.12.

23.12.3 Customer may, subject to Clause 23.12.4, elect to purchase the LNG Facility pursuant to this Clause 23.12 by delivering a written notice (a “**ROFR Election Notice**”) to Service Provider within ninety (90) days after receipt of the ROFR Sale Notice, stating its election to make such purchase on the same terms as the Purchase Offer, including the ROFR Price to be paid, substituting only the identity of the Buyer. The Parties shall use commercially reasonable efforts to cause the closing of the Facility Sale to Customer pursuant to this Clause 23.12 to occur no later than one hundred and eighty (180) days after the date of the ROFR Election Notice, subject to extension as necessary to obtain any consents required from an Authorized Authority.

23.12.4 If (i) a ROFR Election Notice is not delivered to Service Provider within the ninety (90) day period set forth in Clause 23.12.3 or (ii) any Facility Sale to Customer fails to close within one hundred and eighty (180) days after the date of the ROFR Election Notice (subject to extension as necessary to obtain any consents required from an Authorized Authority), Service Provider will be free to engage in a Facility Sale to any Person on the same terms set forth in the Purchase Offer (or for the same or a higher price to Service Provider and such other terms that are, on the whole, no more favorable to a buyer than those of the Buyer in the Purchase Offer). In the event of any decrease in the purchase price payable by the Buyer below the ROFR Price, substitution of debt for cash consideration not originally contemplated in the ROFR Sale Notice prior to closing or if Service Provider has not entered into a purchase agreement with a Third Party with respect to a Facility Sale within six (6) months of Service Provider being permitted to sell the LNG Facility in accordance with this Clause 23.12.4, the revised terms or delayed period of sale shall require Service Provider to comply with Clause 23.12.2 again.

23.12.5 Notwithstanding anything herein to the contrary, an indirect transfer of the equity interests of Service Provider shall not be deemed to constitute a Facility Sale for purposes of this Clause 23.12 unless (1) the LNG Facility constitutes substantially all of the assets of Service Provider at the relevant time and (2) such transfer of equity interests would result in Service Provider no longer being controlled, directly or indirectly, by Harvest Midstream Company or an Affiliate thereof.

### **23.13 Further Assurances**

Each Party agrees to do all such things and take all such actions as may be necessary to give full force and effect to the matters contemplated by this Agreement.

### **23.14 Entire Agreement**

This Agreement constitutes the entire agreement between the Parties with respect to the subject matter hereof and sets out all of the covenants, promises, warranties, representations, conditions and agreements between the Parties with respect to the rights granted and obligations assumed herein and therein and supersedes all prior agreements,

understandings, negotiations and discussions, whether oral or written, pre-contractual or otherwise with respect to the subject matter hereof. There are no covenants, promises, warranties, representations, conditions or other agreements, whether oral or written, pre-contractual or otherwise, express, implied or collateral, between the Parties in connection with the subject matter of this Agreement except as specifically set forth in this Agreement and any document required to be delivered pursuant to this Agreement.

### **23.15 Counterpart Signatures**

This Agreement may be executed and delivered in as many separate counterparts as the Parties consider necessary, each of which, when a counterpart has been executed by each Party, shall be considered to be an original and all of which when taken together shall constitute one and the same instrument. A facsimile or other electronic copy of a counterpart (including .pdf counterparts sent by email transmission) executed by a Party shall be acceptable evidence of the execution by that Party of that counterpart.

*[Signatures on following page]*



**IN WITNESS WHEREOF**, the duly authorized representatives of the Parties have caused this Agreement to be executed as of the Effective Date.

**HARVEST ALASKA LNG, LLC**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**INTERIOR ALASKA NATURAL GAS UTILITY**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**EXHIBIT A**

**GAS DELIVERY POINT AND NGL DELIVERY POINT**

See attached.

## **EXHIBIT B**

### **SERVICES MANUAL**

See attached.

## **EXHIBIT C**

### **FORM OF ACCESS AGREEMENT**

See attached.

**EXHIBIT D**

**FORM OF PARENT GUARANTEE**

See attached.

## SCHEDULE A

### LNG FACILITY

As of the Commencement Date, the LNG Facility will include the following:

1. liquefaction facilities with a single Train with an LNG production capacity of no less than 150,000 Gallons of LNG per day (the actual production capacity, the “**Initial Nameplate Capacity**”);
2. LNG storage facilities with a total gross capacity no less than 150,000 Gallons of LNG;
3. gas pre-treatment facility;
4. the Lateral Gas Pipeline with suitable interconnections at the Gas Delivery Point capable of receiving at least the Maximum Daily Gas Quantity;
5. the Lateral NGL Pipeline with suitable interconnections at the NGL Delivery Point;
6. facilities capable of delivering sufficient power to the LNG Facility to support the Operational Capacity;
7. loading facilities capable of transferring LNG at a rate of no less than 12,000 Gallons per hour;
8. truck bays and facilities allowing access and egress to Transporter’s Transport Trucks to take delivery of LNG at the LNG Delivery Point;
9. emergency shutdown systems; and
10. appropriate systems for communications with Transporters.

## SCHEDULE B-1

### MINIMUM VOLUME COMMITMENT

<u>Contract Year</u>	<u>MVC (Gal/LNG)</u>	<u>MVC (Mcf Eq.)<sup>1</sup></u>
Year 0	14,524,328	1,200,000
Year 1	15,734,689	1,300,000
Year 2	16,945,050	1,400,000
Year 3	18,760,591	1,550,000
Year 4	21,786,492	1,800,000
Year 5	25,417,574	2,100,000
Year 6	28,443,476	2,350,000
Year 7	30,864,198	2,550,000
Year 8	32,679,739	2,700,000
Year 9	33,890,099	2,800,000
Year 10	35,100,460	2,900,000
Year 11	36,310,821	3,000,000
Year 12	36,310,821	3,000,000
Year 13	36,916,001	3,050,000
Year 14	36,916,001	3,050,000
Year 15-20	37,012,830	3,058,000

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<sup>1</sup> Based on a conversion equation of 1 Mcf of Gas = 12.103607 Gallons of LNG.

## SCHEDULE B-2

### MONTHLY ALLOCATION OF MVC FOR CONTRACT YEAR 0

<u>Month</u>	<u>MVC (Gal/LNG)</u>	<u>MVC (Mcf Eq.)</u> <sup>2</sup>
July	350,000	28,917
August	465,000	38,418
September	700,000	57,834
October	1,275,000	105,341
November	1,960,000	161,935
December	2,225,000	183,830
January	2,465,000	203,658
February	1,500,000	123,930
March	1,700,000	140,454
April	890,000	73,532
May	665,000	54,942
June	329,238	27,202
<b>TOTAL</b>	<b>14,524,328</b>	<b>1,200,000</b>

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<sup>2</sup> Based on a conversion equation of 1 Mcf of Gas = 12.103607 Gallons of LNG.



## SCHEDULE C

### GAS QUALITY SPECIFICATIONS

Gas received at the Gas Delivery Point:

- (a) shall have a Gross Heating Value of not less than 925 BTU per Standard Cubic Foot and not more than 1100 BTU per Standard Cubic Foot;
- (b) shall contain:

Compositions	Min (mol %)	Max (mol %)
Hydrogen	0	0
Helium	0	0
Carbon Dioxide	0	13
Nitrogen	0	1.1
Methane (C1)	75	100
Ethane (C2)	0	7
Propane (C3)	0	3
i-Butane (i-C4)	0	2
n-Butane (n-C4)	0	0.5
i-Pentane (i-C5)	0	0.5
n-Pentane (n-C5)	0	0.5
Hexane (C6+)	0	0.5
Water vapor	0	1

- (c) shall not contain more than 50 ppm of hydrogen sulfide per one (1) cubic meter;
- (d) shall not contain more than 50 ppm of total sulfur per one (1) cubic meter;
- (e) shall not contain more than thirteen percent (13%) by volume of carbon dioxide;
- (f) shall be as free of oxygen as practicable and shall not in any event contain more than 0.4 Mole % of oxygen;
- (g) shall not contain free liquid and shall not in any event contain more than 7 lbs. of water vapor per one (1) cubic meter;
- (h) shall not contain more than 10 µg/m<sup>3</sup> at 15 C and 101.325 kPa of mercury.

## SCHEDULE D

### LNG QUALITY SPECIFICATIONS

LNG purchased for regasification shall meet the following specification.

Density .....	< 29.3 Lbs/CF
Methane (CH <sub>4</sub> ).....	> 89 mole%
Ethane (C <sub>2</sub> H <sub>6</sub> ).....	< 10 mole %
Propane (C <sub>3</sub> H <sub>8</sub> ).....	< 4 mole %
Butane (C <sub>4</sub> H <sub>10</sub> ) .....	<2 mole%
Pentane (C <sub>5</sub> H <sub>12</sub> ) .....	<2 mole%
Nitrogen (N <sub>2</sub> ) .....	< 3 mole%
Oxygen (O <sub>2</sub> ).....	<0.2 mole%
Water (H <sub>2</sub> O).....	< 1 vppm
Carbon Dioxide (CO <sub>2</sub> ) .....	< 50 VPPM
Sulfur (S <sub>1</sub> ) .....	< 1 ppm
Gross Volumetric Heating Value (HHV) .....	> 998 Btu/SCF
Net Volumetric Heating Value (LHV) .....	> 900 Btu/SCF
Wobbe Index .....	> 1330 and <1400

## SCHEDULE E

### SERVICE FEES

1. As of the Commencement Date, the Service Fees payable by Customer to Service Provider shall consist of the following:

- (a) **Base Service Fee** = \$0.7229 per Gallon, which shall be multiplied by the volume (in Gallons) of LNG delivered each month to Customer that constitute MVC Purchased Volumes;
- (b) **Excess Service Fee** = \$0.3511 per Gallon, which shall be multiplied by the volume (in Gallons) of LNG delivered each month to Customer that constitute Excess Volumes;
- (c) **Deficiency Fee** = an amount per Gallon equal to the Base Service Fee for such Contract Year *minus* the Variable Cost Component for such Contract Year, which amount shall be multiplied by the Volume Deficiency,

where the **Variable Cost Component** will be determined by Service Provider for each Contract Year, acting reasonably, where such Variable Cost Component represents costs for waste, utilities, maintenance, overhead and other operating costs that vary with the throughput of Gas through the LNG Facility; *provided* that IGU shall have the right to challenge Service Provider's calculation for determination pursuant to Clause 21.3, and if the Expert's determination of the Variable Cost Component does not exceed 110% of the amount determined by Service Provider, IGU shall bear 100% of the costs and expenses incurred to pursue determination in accordance with Clause 21.3. If the Expert's determination of the Variable Cost Component exceeds 110% of the amount determined by the Service Provider, the Service Provider shall bear 100% of the costs and expenses incurred to pursue determination in accordance with Clause 21.3

2. Starting as of Contract Year 1 (which commences the July 1 immediately following the first anniversary of the Commencement Date) and occurring each July 1 thereafter through the end of the Term, the Base Service Fee and Excess Service Fee payable hereunder shall be adjusted based on the following formulas:

New Base Service Fee = (x) Previous Contract Year's Base Service Fee *plus* (y) an amount equal to (Previous Contract Years' Base Service Fee *minus* \$0.3304 per Gallon) *multiplied* by the Escalation Factor

New Excess Service Fee = (x) Previous Contract Year's Excess Service Fee *plus* (y) an amount equal to (Previous Contract Years' Excess Service Fee *minus* \$0.1652 per Gallon) *multiplied* by the Escalation Factor

where the **Escalation Factor** represents any increase to the Producer Price Index for Finished Goods ("**PPI FG**") as reported annually by the Bureau of Labor and Statistics, determined by taking the PPI FG as of July 1 for the previous calendar year divided by the PPI FG as of July 1 for the calendar year immediately preceding such previous calendar year, subject to the following:

- (a) for Contract Years 1 through 5, the Escalation Factor shall equal 1.0%;
- (b) for Contract Year 6 and thereafter through the Term, the Escalation Factor shall not exceed 2.0% and shall not be less than 0%; and
- (c) to the extent the Escalation Factor is less than 0% (negative), the negative value will roll over to the next year and be netted with the following Contract Year's Escalation Factor subject to the minimum and maximum rate for a given Contract Year and the carryover will continue to carryforward until fully reflected in the Escalation Factor; and
- (d) to the extent the Escalation Factor is greater than the maximum for a Contract Year, the positive value in excess of the maximum will roll over the next Contract Year and be netted with the following Contract Year's Escalation Factor subject to the minimum and maximum rate for a given Contract Year, and the carryover will continue to carryforward until fully reflected in the Escalation Factor.

### Examples

For purposes of illustrating the application of the Escalator Factor, refer to the following examples:

Example 1, in Contract Year 6, if the PPI-FG is -2%, the adjustment for Contract Year 6 is still 0% (i.e., the minimum increase), but -2% carries over to Contract Year 7. If the PPI-FG for Contract Year 7 is 4%, the net adjustment for Contract Year 7 would be 2% (i.e.,  $4\% - 2\% = 2\%$ ), with no further carryover.

Example 2, in Contract Year 6, if the PPI-FG is -3%, the adjustment for Contract Year 6 is still 0% (i.e., the minimum increase), but -3% carries over to Contract Year 7. If the PPI-FG for Contract Year 7 is -1%, the net adjustment for Contract Year 7 would be 0% (i.e., the minimum increase), but -4% (i.e., -3% from Contract Year 6 and -1% from Contract Year 7) carries over to Contract Year 8. If the PPI-FG for Contract Year 8 is 5%, the net adjustment for Contract Year 8 would be 1% (i.e.,  $5\% - 3\% - 1\% = 1\%$ ), with no additional carryover.

Example 3, in Contract Year 6, if the PPI-FG is 3%, the adjustment for Contract Year 6 is still 2% (i.e., the maximum increase), but 1% carries over to Contract Year 7. If the PPI-FG for Contract Year 7 is 4%, the net adjustment for Contract Year 7 would still be 2% (i.e., the maximum increase), but 3% (i.e., 2% from Contract Year 7 plus the 1% carried over from Contract Year 6) would carry over to Contract Year 8.

Example 4, in Contract Year 6, if the PPI-FG is 3.5%, the adjustment for Contract Year 6 is still 2% (i.e., maximum increase), but 1.5% carries over to Contract Year 7. If the PPI-FG for Contract Year 7 is 0.5%, the net adjustment for Contract Year 7 would be 2% (i.e.,  $1.5\% + 0.5\%$ ) with no additional carryover.

## **SCHEDULE F**

### **INSURANCE**

Each Party shall, at such Party's expense, procure and maintain for the duration of this Agreement, the insurance policies described below with insurers authorized to conduct business in the state of Alaska and a current A.M. Best's rating of no less than A-, and with policy limits not less than those indicated below.

Such insurance shall not be cancelled, altered, or amended without 30 days prior written notice having been furnished to the other Party in accordance with the notification provisions in this Agreement.

Such Party agrees to furnish the other Party a Certificate(s) of Insurance verifying insurance coverages in accordance with the below requirements. The acceptance of a Certificate of Insurance with less than the required amounts shall not be deemed a waiver of these requirements.

Each Party shall name the other Party, its Affiliates and its and their respective officers, officials, employees, and volunteers as Additional Insured on all insurance Policies (except Workers' Compensation) to the extent of the indemnity obligations assumed in this Agreement and on a form at least as broad as ISO Form CG 20 10 11 85 (or if not available, through the addition of both CG 20 10, CG 20 26, CG 20 33, or CG 20 38; *and* CG 20 37 if a later edition is used). The Party obtaining such policies shall be solely responsible for applicable deductibles or self-insured retentions required under such policies.

The Party obtaining the relevant policies hereby grants to the other Party a waiver of any right to subrogation which any insurer of such Party may acquire against such other Party by virtue of the payment of any loss under such insurance, but only to the extent of the indemnity obligations assumed in this Agreement. The relevant Party agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the other Party has received a waiver of subrogation endorsement from the insurer.

For any claims related to this Agreement, the relevant Party's insurance coverage shall be primary and non-contributory and at least as broad as ISO CG 20 01 04 13 as respects the other Party, its Affiliates and its and their respective officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the other Party, its Affiliates or its or their respective officers, officials, employees, or volunteers shall be excess of such Party's insurance and shall not contribute with it. This requirement shall also apply to any Excess or Umbrella liability policies.

#### **MINIMUM INSURANCE REQUIREMENTS:**

- A. Workers' Compensation Insurance with Statutory Limits as required in the State of Hire and State of Operation, and Employer's Liability Insurance with minimum limits of \$1,000,000 per accident for bodily injury or disease.
- B. Commercial General Liability, written on an "occurrence" basis including coverage for contractual liability, products and completed operations, property damage, bodily injury, and personal & advertising injury with minimum limits of \$1,000,000 per occurrence for and \$2,000,000 in the annual aggregate.
- C. Automobile Liability Insurance covering all owned, non-owned and hired autos with minimum limits of \$1,000,000 combined single limit for Bodily Injury and Property Damage.

- D. Umbrella and/or Excess Liability covering in excess of the underlying liability policies noted in A., B., and C. above, with minimum limits of \$20,000,000 any one occurrence and in the annual aggregate.
- E. If any aircraft are used by such Party in the operations hereunder, such Party shall carry or require the owners of such aircraft to carry Bodily Injury and Property Damage Liability, including Passenger Liability, of not less than \$10,000,000 Single Limit. Such insurance shall cover owned and non-owned aircraft, including rotary wing aircraft.

## RESOLUTION 2023-02

**Suggested Motion:** Move to approve Resolution 2023-02  
A RESOLUTION AUTHORIZING THE GENERAL MANAGER OF THE  
INTERIOR GAS UTILITY TO EXECUTE THE FIRST AMENDMENT TO  
THE GAS SALE AND PURCHASE AGREEMENT DATED JANUARY 1,  
2021 BETWEEN IGU AND HILCORP ALASKA, LLC

**RESOLUTION 2023-02****A RESOLUTION AUTHORIZING THE GENERAL MANAGER OF THE  
INTERIOR GAS UTILITY TO EXECUTE THE FIRST AMENDMENT TO THE  
GAS SALE AND PURCHASE AGREEMENT DATED JANUARY 1, 2021  
BETWEEN IGU AND HILCORP ALASKA, LLC**

**WHEREAS**, in October 2012, the community established the Interior Gas Utility (IGU), with the mission of ensuring provision of clean-burning natural gas to the most people in the FNSB, as soon as possible and at the lowest possible cost; and

**WHEREAS**, IGU continues to advance the availability of natural gas in the FNSB through its investments in storage and distribution expansion; and

**WHEREAS**, IGU needs additional liquefaction capacity as soon as 2024 in order to continue its projected growth and fulfill its mission; and

**WHEREAS**, Hilcorp Alaska, LLC indicated that utilities should not rely on contract renewals in Cook Inlet, IGU's current main source of natural gas, past current contractual commitments; and

**WHEREAS**, IGU management evaluated available gas supply and liquefaction expansion options, including permanent or temporary expansion of its Cook Inlet liquefaction facility (Titan), imported LNG, and North Slope options, as outlined in BM 2023-01 and Resolution 2023-01; and

**WHEREAS**, IGU and Hilcorp North Slope, LLC have negotiated a Gas Sale and Purchase Agreement which outlines the terms under which Hilcorp North Slope, LLC will sell gas to IGU at the North Slope instead of the Cook Inlet starting with a targeted commencement date of October 2024; and

**WHEREAS**, IGU and Harvest Alaska LNG, LLC (Harvest) have negotiated an LNG Manufacturing Service Agreement, which outlines the terms under which Harvest will build an LNG Plant on the North Slope, liquefy the Hilcorp North Slope, LLC gas, and sell LNG to IGU with a targeted commencement date of October 2024; and

**WHEREAS**, IGU Management has recommended the IGU Board of Directors approve the above referenced agreements; and

**WHEREAS**, the Gas Sale and Purchase Agreement between IGU and Hilcorp Alaska, LLC dated January 1, 2021 needs to be amended to release IGU from its minimum volume commitments and release Hilcorp Alaska, LLC from its obligation to supply IGU after the commencement of LNG deliveries from the North Slope LNG Manufacturing and Service Agreement begin.

**NOW, THEREFORE, BE IT RESOLVED** that the IGU Board of Directors authorizes the IGU General Manager to execute a First Amendment to the Gas Sale and Purchase Agreement



33 between IGU and Hilcorp Alaska, LLC dated January 1, 2023, with the major terms and conditions  
34 as substantially included in the First Amendment to Gas Sale and Purchase Agreement, Attachment  
35 A, to coordinate the commitments of the parties related to the North Slope Agreement and the Cook  
36 Inlet Agreement relieving IGU of Minimum Volume Purchases in the Cook Inlet once deliveries  
37 commence from the North Slope.

38 **ATTACHMENT:**

39 **Attachment A**  
40 First Amendment to Gas Sale and Purchase Agreement

41 *Approved by the Board of Directors*

42 \_\_\_\_\_  
43 Gary Wilken - Chair, for the IGU Board of Directors Date

44 \_\_\_\_\_  
45 Heather Thomas - Secretary to the IGU Board of Directors Date

**FIRST AMENDMENT  
TO GAS SALE AND PURCHASE AGREEMENT**

THIS FIRST AMENDMENT TO GAS SALE AND PURCHASE AGREEMENT (this “**Amendment**”) is made effective for all purposes as of January 18, 2023 (the “**Effective Date**”), by and between Hilcorp Alaska, LLC (“**Seller**”), and Interior Alaska Natural Gas Utility (“**Buyer**”). Seller and Buyer are each individually, a “**Party**” and collectively, the “**Parties**”.

RECITALS:

WHEREAS, the Parties entered into that certain Gas Sale and Purchase Agreement dated January 1, 2021 (as heretofore amended, supplemented or otherwise modified, the “**Cook Inlet Agreement**”);

WHEREAS, Buyer is a party to that certain LNG Manufacturing Service Agreement, dated January 18, 2023, by and between Interior Alaska Natural Gas Utility as “Customer”, and Harvest Alaska LNG, LLC as “Service Provider” (the “**LNG Service Agreement**”);

WHEREAS, the Parties desire to amend the Cook Inlet Agreement as further set forth herein;

NOW THEREFORE, in consideration of the mutual covenants and agreements set forth herein, and for good and valuable consideration, the receipt of which is hereby acknowledged, the Parties hereto agree as follows:

1. Amendments.

- a) Effective as of the Commencement Date (as defined in the LNG Service Agreement), notwithstanding anything in the Cook Inlet Agreement to the contrary, including, without limitation, Sections 2.3 or 2.4 of the Cook Inlet Agreement, except as set forth herein, the Parties acknowledge and agree that Buyer and Seller shall not be subject to any minimum or maximum monthly or daily contract quantities or commitments, and that neither Party shall be liable

to the other Party under the Cook Inlet Agreement for failure to deliver or accept any volume of Gas.

b) Notwithstanding subsection (a) above, for a period of three hundred sixty-five (365) days from the Commencement Date, Seller's daily contract quantities and commitments under the Cook Inlet Agreement shall continue in force and effect to the extent and only to the extent the volumes of LNG received by Buyer under the LNG Service Agreement are insufficient to satisfy Buyer's Requirements.

c) Effective as of the Commencement Date, Section 2.8 of the Cook Inlet Agreement is hereby deleted in its entirety and replaced with the following:

“[Reserved.]”

d) Effective as of the Commencement Date, Section 4.1 of the Cook Inlet Agreement is hereby deleted in its entirety and replaced with the following:

“The term of this Agreement shall commence on the Effective Date, and unless sooner terminated under Section 4.2, end on the Termination Date (“Term”).”

2. Full Force and Effect. The Cook Inlet Agreement, as amended and supplemented hereby, remains in full force and effect without any further amendments, alterations or modifications thereto except as expressly set forth herein, and the Parties expressly ratify and confirm the foregoing recitals and the Cook Inlet Agreement as amended hereby.
3. Counterparts and Facsimile Signatures. This Amendment may be executed in any number of counterparts and by the Parties hereto on separate counterparts, including facsimile transmittals, each of which when so executed shall be deemed an original, but all such counterparts, when taken together, shall constitute but one and the same Amendment.
4. Miscellaneous. Sections 13 (*Governing Law*) and 15 (*Miscellaneous*) of the Cook Inlet Agreement shall be incorporated herein mutatis mutandis.
5. Definitions. All definitions used, but not defined herein shall have the meaning given such terms in the Cook Inlet Agreement.

*[Signature Page Follows]*

The Parties have executed this Amendment as evidenced by the following signatures of authorized representatives of the Parties:

**HILCORP ALASKA, LLC**

**INTERIOR ALASKA NATURAL GAS  
UTILITY**

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: Greg Lalicker

Name: Dan Britton

Title: Chief Executive Officer

Title: Manager

# Director Requests for IGU Information

# Closing Comments

- General Manager
- IGU Attorney
- Directors

# ADJOURNMENT