

## Base Contract for Sale and Purchase of Natural Gas

This Base Contract is entered into as of the following date:           , 202X

The parties to this Base Contract are the following:

PARTY A Karbone Energy, LLC	PARTY NAME	PARTY B King County, through its Department of Natural Resources and Parks – Solid Waste Division
675 Third Avenue, 31 <sup>st</sup> Floor, New York, NY 10017	ADDRESS	201 S. Jackson St, Suite 6400 Seattle, WA 98104
www.karbone.com	BUSINESS WEBSITE	https://kingcounty.gov/en/dept/dnpr/waste-services/garbage-recycling-compost/about
11-903-7699	CONTRACT NUMBER	957152549
<input checked="" type="checkbox"/> US FEDERAL: 87-3055885 <input type="checkbox"/> OTHER:	D-U-N-S® NUMBER	<input checked="" type="checkbox"/> US FEDERAL: 91-6001327 <input type="checkbox"/> OTHER:
Delaware	TAX ID NUMBERS	Washington
<input type="checkbox"/> Corporation <input checked="" type="checkbox"/> LLC <input type="checkbox"/> Limited Partnership <input type="checkbox"/> Partnership <input type="checkbox"/> LLP <input type="checkbox"/> Other: _____	JURISDICTION OF ORGANIZATION	<input type="checkbox"/> Corporation <input type="checkbox"/> LLC <input type="checkbox"/> Limited Partnership <input type="checkbox"/> Partnership <input type="checkbox"/> LLP <input checked="" type="checkbox"/> Other: A home rule charter county and political subdivision of the State of Washington
	COMPANY TYPE	
	GUARANTOR (IF APPLICABLE)	
CONTACT INFORMATION		
Karbone Energy LLC ATTN: <u>Settlements</u> TEL#: <u>646-291-2900</u> FAX#: _____ EMAIL: <u>settlements@karbone.com</u>	▪ COMMERCIAL	King County Solid Waste Division ATTN: <u>Lindy Honaker</u> TEL#: <u>206-263-6739</u> FAX#: _____ EMAIL: <u>lhonaker@kingcounty.gov</u>
Karbone Energy LLC ATTN: <u>Settlements</u> TEL#: <u>646-291-2900</u> FAX#: _____ EMAIL: <u>settlements@karbone.com</u>	▪ SCHEDULING	King County Solid Waste Division ATTN: <u>Lindy Honaker</u> TEL#: <u>206-263-6739</u> FAX#: _____ EMAIL: <u>lhonaker@kingcounty.gov</u>
Karbone Energy LLC ATTN: <u>Accounting</u> TEL#: <u>646-291-2900</u> FAX#: _____ EMAIL: <u>accounting@karbone.com</u>	▪ CONTRACT AND LEGAL NOTICES	King County Solid Waste Division ATTN: <u>Lindy Honaker</u> TEL#: <u>206-263-6739</u> FAX#: _____ EMAIL: <u>lhonaker@kingcounty.gov</u>
Karbone Energy LLC ATTN: <u>Accounting</u> TEL#: <u>646-291-2900</u> FAX#: _____ EMAIL: <u>accounting@karbone.com</u>	▪ CREDIT	King County Solid Waste Division ATTN: <u>Lindy Honaker</u> TEL#: <u>206-263-6739</u> FAX#: _____ EMAIL: <u>lhonaker@kingcounty.gov</u>
Karbone Energy LLC ATTN: <u>Settlements</u> TEL#: <u>646-291-2900</u> FAX#: _____ EMAIL: <u>settlements@karbone.com</u>	▪ TRANSACTION CONFIRMATIONS	King County Solid Waste Division ATTN: <u>Lindy Honaker</u> TEL#: <u>206-263-6739</u> FAX#: _____ EMAIL: <u>lhonaker@kingcounty.gov</u>
ACCOUNTING INFORMATION		
Karbone Energy LLC ATTN: <u>Accounting</u> TEL#: <u>646-291-2900</u> FAX#: _____ EMAIL: <u>accounting@karbone.com</u>	▪ INVOICES ▪ PAYMENTS ▪ SETTLEMENTS	King County Solid Waste Division ATTN: <u>Nebi Tekle</u> TEL#: <u>206-477-0784</u> FAX#: _____ EMAIL: <u>ntekle@kingcounty.gov</u>
BANK: <u>East West Bank</u> ABA: <u>322070381</u> ACCT: <u>8003296863</u> OTHER DETAILS: _____	WIRE TRANSFER NUMBERS (IF APPLICABLE)	BANK: _____ ABA: _____ ACCT: _____ OTHER DETAILS: _____
BANK: <u>East West Bank</u> ABA: <u>322070381</u> ACCT: <u>8003296863</u> OTHER DETAILS: _____	ACH NUMBERS (IF APPLICABLE)	BANK: _____ ABA: _____ ACCT: _____ OTHER DETAILS: _____
ATTN: _____ ADDRESS: _____	CHECKS (IF APPLICABLE)	ATTN: _____ ADDRESS: _____

## Base Contract for Sale and Purchase of Natural Gas

(Continued)

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

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

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

<b>Karbone Energy, LLC</b>	<i>PARTY NAME</i>	<b>King County, through its Department of Natural Resources and Parks – Solid Waste Division</b>
	<b>SIGNATURE</b>	
Jonathan Burnston	<i>PRINTED NAME</i>	Rebecca Singer
Managing Director	<i>TITLE</i>	Solid Waste Division Director

## General Terms and Conditions

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

#### SECTION 1. PURPOSE AND PROCEDURES

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

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

**Oral Transaction Procedure:**

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

**Written Transaction Procedure:**

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

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

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

#### SECTION 2. DEFINITIONS

The terms set forth below shall have the meaning ascribed to them below. Other terms are also defined elsewhere in the Contract and shall have the meanings ascribed to them herein.

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

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

- 2.3. "Alternative Damages" shall mean such damages, expressed in dollars or dollars per MMBtu, as the parties shall agree upon in the Transaction Confirmation, in the event either Seller or Buyer fails to perform a Firm obligation to deliver Gas in the case of Seller or to receive Gas in the case of Buyer.
- 2.4. "Base Contract" shall mean a contract executed by the parties that incorporates these General Terms and Conditions by reference; that specifies the agreed selections of provisions contained herein; and that sets forth other information required herein and any Special Provisions and addendum(s) as identified on page one.
- 2.5. "British thermal unit" or "Btu" shall mean the International BTU, which is also called the Btu (IT).
- 2.6. "Business Day(s)" shall mean Monday through Friday, excluding Federal Banking Holidays for transactions in the U.S.
- 2.7. "Confirm Deadline" shall mean 5:00 p.m. in the receiving party's time zone on the second Business Day following the Day a Transaction Confirmation is received or, if applicable, on the Business Day agreed to by the parties in the Base Contract; provided, if the Transaction Confirmation is time stamped after 5:00 p.m. in the receiving party's time zone, it shall be deemed received at the opening of the next Business Day.
- 2.8. "Confirming Party" shall mean the party designated in the Base Contract to prepare and forward Transaction Confirmations to the other party.
- 2.9. "Contract" shall mean the legally-binding relationship established by (i) the Base Contract, (ii) any and all binding Transaction Confirmations and (iii) where the parties have selected the Oral Transaction Procedure in Section 1.2 of the Base Contract, any and all transactions that the parties have entered into through an EDI transmission or by telephone, but that have not been confirmed in a binding Transaction Confirmation, all of which shall form a single integrated agreement between the parties.
- 2.10. "Contract Price" shall mean the amount expressed in U.S. Dollars per MMBtu to be paid by Buyer to Seller for the purchase of Gas as agreed to by the parties in a transaction.
- 2.11. "Contract Quantity" shall mean the quantity of Gas to be delivered and taken as agreed to by the parties in a transaction.
- 2.12. "Cover Standard", as referred to in Section 3.2, shall mean that if there is an unexcused failure to take or deliver any quantity of Gas pursuant to this Contract, then the performing party shall use commercially reasonable efforts to (i) if Buyer is the performing party, obtain Gas, (or an alternate fuel if elected by Buyer and replacement Gas is not available), or (ii) if Seller is the performing party, sell Gas, in either case, at a price reasonable for the delivery or production area, as applicable, consistent with: the amount of notice provided by the nonperforming party; the immediacy of the Buyer's Gas consumption needs or Seller's Gas sales requirements, as applicable; the quantities involved; and the anticipated length of failure by the nonperforming party.
- 2.13. "Credit Support Obligation(s)" shall mean any obligation(s) to provide or establish credit support for, or on behalf of, a party to this Contract such as cash, an irrevocable standby letter of credit, a margin agreement, a prepayment, a security interest in an asset, guaranty, or other good and sufficient security of a continuing nature.
- 2.14. "Day" shall mean a period of 24 consecutive hours, coextensive with a "day" as defined by the Receiving Transporter in a particular transaction.
- 2.15. "Delivery Period" shall be the period during which deliveries are to be made as agreed to by the parties in a transaction.
- 2.16. "Delivery Point(s)" shall mean such point(s) as are agreed to by the parties in a transaction.
- 2.17. "EDI" shall mean an electronic data interchange pursuant to an agreement entered into by the parties, specifically relating to the communication of Transaction Confirmations under this Contract.
- 2.18. "EFP" shall mean the purchase, sale or exchange of natural Gas as the "physical" side of an exchange for physical transaction involving gas futures contracts. EFP shall incorporate the meaning and remedies of "Firm", provided that a party's excuse for nonperformance of its obligations to deliver or receive Gas will be governed by the rules of the relevant futures exchange regulated under the Commodity Exchange Act.
- 2.19. "Firm" shall mean that either party may interrupt its performance without liability only to the extent that such performance is prevented for reasons of Force Majeure; provided, however, that during Force Majeure interruptions, the party invoking Force Majeure may be responsible for any Imbalance Charges as set forth in Section 4.3 related to its interruption after the nomination is made to the Transporter and until the change in deliveries and/or receipts is confirmed by the Transporter.
- 2.20. "Gas" shall mean any mixture of hydrocarbons and noncombustible gases in a gaseous state consisting primarily of methane.
- 2.21. "Guarantor" shall mean any entity that has provided a guaranty of the obligations of a party hereunder.
- 2.22. "Imbalance Charges" shall mean any fees, penalties, costs or charges (in cash or in kind) assessed by a Transporter for failure to satisfy the Transporter's balance and/or nomination requirements.
- 2.23. "Indebtedness Cross Default" shall mean if selected on the Base Contract by the parties with respect to a party, that it or its Guarantor, if any, experiences a default, or similar condition or event however therein defined, under one or more agreements or instruments, individually or collectively, relating to indebtedness (such indebtedness to include any obligation whether present or future, contingent or otherwise, as principal or surety or otherwise) for the payment or repayment of borrowed money in an aggregate amount greater than the threshold specified in the Base Contract with respect to such party or its Guarantor, if any, which results in such indebtedness becoming immediately due and payable.
- 2.24. "Interruptible" shall mean that either party may interrupt its performance at any time for any reason, whether or not caused by an event of Force Majeure, with no liability, except such interrupting party may be responsible for any Imbalance Charges as set forth in Section 4.3 related to its interruption after the nomination is made to the Transporter and until the change in deliveries and/or receipts is confirmed by Transporter.

- 2.25. "MMBtu" shall mean one million British thermal units, which is equivalent to one dekatherm.
- 2.26. "Month" shall mean the period beginning on the first Day of the calendar month and ending immediately prior to the commencement of the first Day of the next calendar month.
- 2.27. "Payment Date" shall mean a date, as indicated on the Base Contract, on or before which payment is due Seller for Gas received by Buyer in the previous Month.
- 2.28. "Receiving Transporter" shall mean the Transporter receiving Gas at a Delivery Point, or absent such receiving Transporter, the Transporter delivering Gas at a Delivery Point.
- 2.29. "Scheduled Gas" shall mean the quantity of Gas confirmed by Transporter(s) for movement, transportation or management.
- 2.30. "Specified Transaction(s)" shall mean any other transaction or agreement between the parties for the purchase, sale or exchange of physical Gas, and any other transaction or agreement identified as a Specified Transaction under the Base Contract.
- 2.31. "Spot Price" as referred to in Section 3.2 shall mean the price listed in the publication indicated on the Base Contract, under the listing applicable to the geographic location closest in proximity to the Delivery Point(s) for the relevant Day; provided, if there is no single price published for such location for such Day, but there is published a range of prices, then the Spot Price shall be the average of such high and low prices. If no price or range of prices is published for such Day, then the Spot Price shall be the average of the following: (i) the price (determined as stated above) for the first Day for which a price or range of prices is published that next precedes the relevant Day; and (ii) the price (determined as stated above) for the first Day for which a price or range of prices is published that next follows the relevant Day.
- 2.32. "Transaction Confirmation" shall mean a document, similar to the form of Exhibit A, setting forth the terms of a transaction formed pursuant to Section 1 for a particular Delivery Period.
- 2.33. "Transactional Cross Default" shall mean if selected on the Base Contract by the parties with respect to a party, that it shall be in default, however therein defined, under any Specified Transaction.
- 2.34. "Termination Option" shall mean the option of either party to terminate a transaction in the event that the other party fails to perform a Firm obligation to deliver Gas in the case of Seller or to receive Gas in the case of Buyer for a designated number of days during a period as specified on the applicable Transaction Confirmation.
- 2.35. "Transporter(s)" shall mean all Gas gathering or pipeline companies, or local distribution companies, acting in the capacity of a transporter, transporting Gas for Seller or Buyer upstream or downstream, respectively, of the Delivery Point pursuant to a particular transaction.

### SECTION 3. PERFORMANCE OBLIGATION

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

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

**Cover Standard:**

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

**Spot Price Standard:**

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

be payable five Business Days after presentation of the performing party's invoice, which shall set forth the basis upon which such amount was calculated.
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3.3. Notwithstanding Section 3.2, the parties may agree to Alternative Damages in a Transaction Confirmation executed in writing by both parties.

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

## SECTION 4. TRANSPORTATION, NOMINATIONS, AND IMBALANCES

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

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

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

## SECTION 5. QUALITY AND MEASUREMENT

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

## SECTION 6. TAXES

<b>The parties have selected either "Buyer Pays At and After Delivery Point" or "Seller Pays Before and At Delivery Point" as indicated on the Base Contract.</b>
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<b>Buyer Pays At and After Delivery Point:</b>
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Seller shall pay or cause to be paid all taxes, fees, levies, penalties, licenses or charges imposed by any government authority ("Taxes") on or with respect to the Gas prior to the Delivery Point(s). Buyer shall pay or cause to be paid all Taxes on or with respect to the Gas at the Delivery Point(s) and all Taxes after the Delivery Point(s). If a party is required to remit or pay Taxes that are the other party's responsibility hereunder, the party responsible for such Taxes shall promptly reimburse the other party for such Taxes. Any party entitled to an exemption from any such Taxes or charges shall furnish the other party any necessary documentation thereof.
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<b>Seller Pays Before and At Delivery Point:</b>
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Seller shall pay or cause to be paid all taxes, fees, levies, penalties, licenses or charges imposed by any government authority ("Taxes") on or with respect to the Gas prior to the Delivery Point(s) and all Taxes at the Delivery Point(s). Buyer shall pay or cause to be paid all Taxes on or with respect to the Gas after the Delivery Point(s). If a party is required to remit or pay Taxes that are the other party's responsibility hereunder, the party responsible for such Taxes shall promptly reimburse the other party for such Taxes. Any party entitled to an exemption from any such Taxes or charges shall furnish the other party any necessary documentation thereof.
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## SECTION 7. BILLING, PAYMENT, AND AUDIT

7.1. Seller shall invoice Buyer for Gas delivered and received in the preceding Month and for any other applicable charges, providing supporting documentation acceptable in industry practice to support the amount charged. If the actual quantity delivered is not known by the billing date, billing will be prepared based on the quantity of Scheduled Gas. The invoiced quantity will then be adjusted to the actual quantity on the following Month's billing or as soon thereafter as actual delivery information is available.

7.2. Buyer shall remit the amount due under Section 7.1 in the manner specified in the Base Contract, in immediately available funds, on or before the later of the Payment Date or 10 Days after receipt of the invoice by Buyer; provided that if the Payment Date is not a Business Day, payment is due on the next Business Day following that date. In the event any payments are due Buyer hereunder, payment to Buyer shall be made in accordance with this Section 7.2.

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

7.4. If the invoiced party, in good faith, disputes the amount of any such invoice or any part thereof, such invoiced party will pay such amount as it concedes to be correct; provided, however, if the invoiced party disputes the amount due, it must provide supporting documentation acceptable in industry practice to support the amount paid or disputed without undue delay. In the event the parties are unable to resolve such dispute, either party may pursue any remedy available at law or in equity to enforce its rights pursuant to this Section.

7.5. If the invoiced party fails to remit the full amount payable when due, interest on the unpaid portion shall accrue from the date due until the date of payment at a rate equal to the lower of (i) the then-effective prime rate of interest published under "Money Rates" by The Wall Street Journal, plus two percent per annum; or (ii) the maximum applicable lawful interest rate.

7.6. A party shall have the right, at its own expense, upon reasonable Notice and at reasonable times, to examine and audit and to obtain copies of the relevant portion of the books, records, and telephone recordings of the other party only to the extent reasonably necessary to verify the accuracy of any statement, charge, payment, or computation made under the Contract. This right to examine, audit, and to obtain copies shall not be available with respect to proprietary information not directly relevant to transactions under this Contract. All invoices and billings shall be conclusively presumed final and accurate and all associated claims for under- or overpayments shall be deemed waived unless such invoices or billings are objected to in writing, with adequate explanation and/or documentation, within two years after the Month of Gas delivery. All retroactive adjustments under Section 7 shall be paid in full by the party owing payment within 30 Days of Notice and substantiation of such inaccuracy.

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

## SECTION 8. TITLE, WARRANTY, AND INDEMNITY

8.1. Unless otherwise specifically agreed, title to the Gas shall pass from Seller to Buyer at the Delivery Point(s). Seller shall have responsibility for and assume any liability with respect to the Gas prior to its delivery to Buyer at the specified Delivery Point(s). Buyer shall have responsibility for and assume any liability with respect to said Gas after its delivery to Buyer at the Delivery Point(s).

8.2. Seller warrants that it will have the right to convey and will transfer good and merchantable title to all Gas sold hereunder and delivered by it to Buyer, free and clear of all liens, encumbrances, and claims. EXCEPT AS PROVIDED IN THIS SECTION 8.2 AND IN SECTION 15.8, ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR OF FITNESS FOR ANY PARTICULAR PURPOSE, ARE DISCLAIMED.

8.3. Seller agrees to indemnify Buyer and save it harmless from all losses, liabilities or claims including reasonable attorneys' fees and costs of court ("Claims"), from any and all persons, arising from or out of claims of title, personal injury (including death) or property damage from said Gas or other charges thereon which attach before title passes to Buyer. Buyer agrees to indemnify Seller and save it harmless from all Claims, from any and all persons, arising from or out of claims regarding payment, personal injury (including death) or property damage from said Gas or other charges thereon which attach after title passes to Buyer.

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

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

## SECTION 9. NOTICES

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

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

9.3. Notice shall be given when received on a Business Day by the addressee. In the absence of proof of the actual receipt date, the following presumptions will apply. Notices sent by facsimile shall be deemed to have been received upon the sending party's receipt of its facsimile machine's confirmation of successful transmission. If the day on which such facsimile is received is not a Business Day or is after five p.m. on a Business Day, then such facsimile shall be deemed to have been received on the next following Business Day. Notice by overnight mail or courier shall be deemed to have been received on the next Business Day after it was sent or such earlier time as is confirmed by the receiving party. Notice via first class mail shall be considered delivered five Business Days after mailing.

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

## SECTION 10. FINANCIAL RESPONSIBILITY

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

10.2. In the event (each an "Event of Default") either party (the "Defaulting Party") or its Guarantor shall: (i) make an assignment or any general arrangement for the benefit of creditors; (ii) file a petition or otherwise commence, authorize, or acquiesce in the commencement of a proceeding or case under any bankruptcy or similar law for the protection of creditors or have such petition filed or proceeding commenced against it; (iii) otherwise become bankrupt or insolvent (however evidenced); (iv) be unable to pay its debts as they fall due; (v) have a receiver, provisional liquidator, conservator, custodian, trustee or other similar official appointed with respect to it or substantially all of its assets; (vi) fail to perform any obligation to the other party with respect to any Credit Support Obligations relating to the Contract; (vii) fail to give Adequate Assurance of Performance under Section 10.1 within 48 hours but at least one Business Day of a written request by the other party; (viii) not have paid any amount due the other party hereunder on or before the second Business Day following written Notice that such payment is due; or ix) be the affected party with respect to any Additional Event of Default; then the other party (the "Non-Defaulting Party") shall have the right, at its sole election, to immediately withhold and/or suspend deliveries or payments upon Notice and/or to terminate and liquidate the transactions under the Contract, in the manner provided in Section 10.3, in addition to any and all other remedies available hereunder.

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

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

**Early Termination Damages Apply:**

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

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

**Early Termination Damages Do Not Apply:**

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

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

**Other Agreement Setoffs Apply:****Bilateral Setoff Option:**

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

**Triangular Setoff Option:**

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

**Other Agreement Setoffs Do Not Apply:**

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

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

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

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

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

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

## SECTION 11. FORCE MAJEURE

11.1. Except with regard to a party's obligation to make payment(s) due under Section 7, Section 10.4, and Imbalance Charges under Section 4, neither party shall be liable to the other for failure to perform a Firm obligation, to the extent such failure was caused by Force Majeure. The term "Force Majeure" as employed herein means any cause not reasonably within the control of the party claiming suspension, as further defined in Section 11.2.

11.2. Force Majeure shall include, but not be limited to, the following: (i) physical events such as acts of God, landslides, lightning, earthquakes, fires, storms or storm warnings, such as hurricanes, which result in evacuation of the affected area, floods, washouts, explosions, breakage or accident or necessity of repairs to machinery or equipment or lines of pipe; (ii) weather related events affecting an entire geographic region, such as low temperatures which cause freezing or failure of wells or lines of pipe; (iii) interruption and/or curtailment of Firm transportation and/or storage by Transporters; (iv) acts of others such as strikes, lockouts or other industrial disturbances, riots, sabotage, insurrections or wars, or acts of terror; and (v) governmental actions such as necessity for compliance with any court order, law, statute, ordinance, regulation, or policy having the effect of law promulgated by a governmental authority having

jurisdiction. Seller and Buyer shall make reasonable efforts to avoid the adverse impacts of a Force Majeure and to resolve the event or occurrence once it has occurred in order to resume performance.

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

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

11.5. The party whose performance is prevented by Force Majeure must provide Notice to the other party. Initial Notice may be given orally; however, written Notice with reasonably full particulars of the event or occurrence is required as soon as reasonably possible. Upon providing written Notice of Force Majeure to the other party, the affected party will be relieved of its obligation, from the onset of the Force Majeure event, to make or accept delivery of Gas, as applicable, to the extent and for the duration of Force Majeure, and neither party shall be deemed to have failed in such obligations to the other during such occurrence or event.

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

## SECTION 12. TERM

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

## SECTION 13. LIMITATIONS

FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY. A PARTY'S LIABILITY HEREUNDER SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION, AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED HEREIN OR IN A TRANSACTION, A PARTY'S LIABILITY SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY. SUCH DIRECT ACTUAL DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. UNLESS EXPRESSLY HEREIN PROVIDED, NEITHER PARTY SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION OR OTHERWISE. IT IS THE INTENT OF THE PARTIES THAT THE LIMITATIONS HEREIN IMPOSED ON REMEDIES AND THE MEASURE OF DAMAGES BE WITHOUT REGARD TO THE CAUSE OR CAUSES RELATED THERETO, INCLUDING THE NEGLIGENCE OF ANY PARTY, WHETHER SUCH NEGLIGENCE BE SOLE, JOINT OR CONCURRENT, OR ACTIVE OR PASSIVE. TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, OR OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT AND THE DAMAGES CALCULATED HEREUNDER CONSTITUTE A REASONABLE APPROXIMATION OF THE HARM OR LOSS.

## SECTION 14. MARKET DISRUPTION

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

## SECTION 15. MISCELLANEOUS

15.1. This Contract shall be binding upon and inure to the benefit of the successors, assigns, personal representatives, and heirs of the respective parties hereto, and the covenants, conditions, rights and obligations of this Contract shall run for the full term of this Contract. No Transaction Confirmation

assignment of this Contract, in whole or in part, will be made without the prior written consent of the non-assigning party (and shall not relieve the assigning party from liability hereunder), which consent will not be unreasonably withheld or delayed; provided, either party may (i) transfer, sell, pledge, encumber, or assign this Contract or the accounts, revenues, or proceeds hereof in connection with any financing or other financial arrangements, or (ii) transfer its interest to any parent or Affiliate by assignment, merger or otherwise without the prior approval of the other party. Upon any such assignment, transfer and assumption, the transferor shall remain principally liable for and shall not be relieved of or discharged from any obligations hereunder.

15.2. If any provision in this Contract is determined to be invalid, void or unenforceable by any court having jurisdiction, such determination shall not invalidate, void, or make unenforceable any other provision, agreement or covenant of this Contract.

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

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

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

15.6. This Contract and all provisions herein will be subject to all applicable and valid statutes, rules, orders and regulations of any governmental authority having jurisdiction over the parties, their facilities, or Gas supply, this Contract or transaction or any provisions thereof.

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

15.8. Each party to this Contract represents and warrants that it has full and complete authority to enter into and perform this Contract. Each person who executes this Contract on behalf of either party represents and warrants that it has full and complete authority to do so and that such party will be bound thereby.

15.9. The headings and subheadings contained in this Contract are used solely for convenience and do not constitute a part of this Contract between the parties and shall not be used to construe or interpret the provisions of this Contract.

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

In the event that disclosure is required by a governmental body or applicable law, the party subject to such requirement may disclose the material terms of this Contract to the extent so required, but shall promptly notify the other party, prior to disclosure, and shall cooperate (consistent with the disclosing party's legal obligations) with the other party's efforts to obtain protective orders or similar restraints with respect to such disclosure at the expense of the other party.

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

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

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

TRANSACTION CONFIRMATION  
FOR IMMEDIATE DELIVERY

EXAMPLE: REPLACE WITH REVISED TRANSACTION CONFIRMS

Letterhead/Logo	Date: _____, ____ Transaction Confirmation #: _____			
This Transaction Confirmation is subject to the Base Contract between Seller and Buyer dated _____. The terms of this Transaction Confirmation are binding unless disputed in writing within 2 Business Days of receipt unless otherwise specified in the Base Contract.				
<b>SELLER:</b> _____ _____ Attn: _____ Phone: _____ Fax: _____ Base Contract No. _____ Transporter: _____ Transporter Contract Number: _____	<b>BUYER:</b> _____ _____ Attn: _____ Phone: _____ Fax: _____ Base Contract No. _____ Transporter: _____ Transporter Contract Number: _____			
Contract Price: \$ _____/MMBtu or _____				
Delivery Period: Begin: _____, ____ End: _____, ____				
<b>Performance Obligation and Contract Quantity: (Select One)</b>  <table style="width: 100%; border: none;"> <tr> <td style="width: 33%; vertical-align: top;"> <b>Firm (Fixed Quantity):</b>                      _____ MMBtus/day  <input type="checkbox"/> EFP                 </td> <td style="width: 33%; vertical-align: top;"> <b>Firm (Variable Quantity):</b>                      _____ MMBtus/day Minimum                      _____ MMBtus/day Maximum                      subject to Section 4.2. at election of  <input type="checkbox"/> Buyer or <input type="checkbox"/> Seller                 </td> <td style="width: 33%; vertical-align: top;"> <b>Interruptible:</b>                      Up to _____ MMBtus/day                 </td> </tr> </table>		<b>Firm (Fixed Quantity):</b> _____ MMBtus/day <input type="checkbox"/> EFP	<b>Firm (Variable Quantity):</b> _____ MMBtus/day Minimum _____ MMBtus/day Maximum subject to Section 4.2. at election of <input type="checkbox"/> Buyer or <input type="checkbox"/> Seller	<b>Interruptible:</b> Up to _____ MMBtus/day
<b>Firm (Fixed Quantity):</b> _____ MMBtus/day <input type="checkbox"/> EFP	<b>Firm (Variable Quantity):</b> _____ MMBtus/day Minimum _____ MMBtus/day Maximum subject to Section 4.2. at election of <input type="checkbox"/> Buyer or <input type="checkbox"/> Seller	<b>Interruptible:</b> Up to _____ MMBtus/day		
<b>Delivery Point(s):</b> _____ (If a pooling point is used, list a specific geographic and pipeline location):				
<b>Special Conditions:</b>  _____  _____				
Seller: _____  By: _____  Title: _____  Date: _____	Buyer: _____  By: _____  Title: _____  Date: _____			

**SPECIAL PROVISIONS TO  
BASE CONTRACT FOR SALE AND PURCHASE OF NATURAL GAS**

King County, through its Department of Natural Resources and Parks – Solid Waste Division and Karbone Energy LLC hereby agree effective as of [Date] to amend, modify and supplement the NAESB Standard 6.3.1 Base Contract for Sale and Purchase of Natural Gas (“Base Contract”) dated the same date between the parties hereto with the following special provisions (“Special Provisions”). All capitalized terms not otherwise defined herein shall have the meaning set forth in the Base Contract.

**SECTION 1. PURPOSES AND PROCEDURES**

- Section 1.3 shall be amended by revising clause (i) in the last sentence to read “a binding Transaction Confirmation agreed by the parties pursuant to Section 1.2 or deemed to be agreed under this Section 1.3.”

- Section 1.4 shall be amended by inserting the following language immediately before the last sentence thereof:

“Telephonic recordings may be relied upon to resolve any differences provided that a true and complete copy is made available to the other party. No party may knowingly destroy or erase a recording once the possessing party becomes aware of an actual dispute in which the recording may reasonably be anticipated to be discoverable.”

- The following new Section 1.5 shall be added:

“1.5. The parties agree that the term “EDI,” as defined in Section 2.17, shall be modified to include any electronic communication used by the parties to indicate the parties’ agreement to a transaction, and the terms and provisions thereof, or to transmit a Transaction Confirmation to the other party, including, without limitation, instant messages, emails, and other electronic communications. The parties agree that (i) any EDI used to indicate the parties’ agreement to a transaction or the terms thereof shall be treated in the same manner as a telephone conversation or a recorded telephone call for all purposes under this Base Contract including, without limitation, for purposes of recording, consent to recording, evidence of an agreement between the parties with respect to a transaction, the conflict hierarchy under Section 1.3, and Section 2.9, and (ii) any printed record of an EDI communication shall be treated in the same manner as a recorded telephone call for purposes of this Base Contract.”

**SECTION 2. DEFINITIONS**

- The following sentence shall be added to the end of Section 2.9:

“In the absence of the foregoing agreement concerning the components making up the “Contract,” and their treatment as a single integrated agreement, the parties would not have entered into any transactions under the Base Contract.”

- Section 2.12 is hereby amended by deleting the parenthetical phrase “(or an alternate fuel if elected by Buyer and replacement Gas is not available),” from the definition of Cover Standard.

- The following new Section 2.36 shall be added:

“As used in Section 10.3.1, “Costs’ means any of the following, but only to the extent they are reasonable, direct and actual, and further to the extent they are specifically related to the Terminated Transactions and are not otherwise incorporated into the Net Settlement Amount: (a) costs and expenses associated with transportation, gathering, or storage incurred by the Non-Defaulting Party which cannot be avoided through the Non-Defaulting Party’s reasonable efforts; (b) brokerage fees, unwinding costs, commissions and other similar costs and expenses incurred by the Non-Defaulting Party either in (i) terminating any hedges of any Firm obligations under the Terminated Transactions or (ii) entering into new Firm arrangements that replace the Terminated

Transactions and new hedges that replace any hedges of the Firm obligations that were terminated; and (c) attorneys' fees and court costs incurred by the Non-Defaulting Party in connection with enforcing its rights."

- The following new Section 2.37 shall be added:

"“Merger Event” means, with respect to a party or if applicable, its Guarantor, that such party consolidates or amalgamates with, or merges into or with, or transfers substantially all of its assets to another entity and (i) the resulting entity fails to assume all of the obligations of such party or other entity hereunder, or (ii) the benefits of any credit support provided pursuant to or related to this Contract fail to extend to the performance by such resulting, surviving or transferee entity of its obligations hereunder, or (iii) the resulting entity’s creditworthiness is materially weaker than that of such party or other entity immediately prior to such action.”

## **SECTION 6. TAXES**

- Section 6. Taxes – Buyer Pays At and After Delivery Point shall be amended by adding the phrase “prior to the due date of the applicable tax return” at the end of the last sentence thereof.
- Section 6. Taxes – Buyer Pays At and After Delivery Point shall be further amended by adding the following sentence at the end of such Section:

“Notwithstanding the preceding, for the avoidance of doubt, Seller shall in all cases bear any income, margin or franchise tax assessed with respect to the proceeds of sale of Gas under this Agreement.”

## **SECTION 7. BILLING, PAYMENT AND AUDIT**

- Section 7.2 is amended by adding “Except as set forth in Section 3.2,” at the beginning.

## **SECTION 8. TITLE, WARRANTY AND INDEMNITY**

- Section 8.1 shall be amended by adding the words “at and” between “Gas” and “after” in the third sentence.
- Section 8.3 shall be amended by adding the words “at and” between “attach” and “after” in the second sentence.

## **SECTION 10. FINANCIAL RESPONSIBILITY**

- Section 10.1 is amended by replacing the second sentence of such section with the following:

“Adequate Assurance of Performance” shall mean sufficient security in the form, amount, for the term and from an issuer, all as reasonably acceptable to X, including, but not limited to, cash, a standby irrevocable letter of credit, a prepayment, or a guaranty. The amount of Adequate Assurance of Performance shall be determined based upon X’s reasonable good faith estimate of its maximum net financial exposure to Y at any given time for transactions subject to this Contract. Each party agrees that notwithstanding any provisions of law relating to adequate assurance of future performance, including, without limitation, any applicable statutory enactment of Article 2-609 of the Uniform Commercial Code, the parties shall only be entitled to request Adequate Assurance of Performance as specifically provided herein.”

- Section 10.1 is further modified by adding the following at the end of such Section:

“Upon request by either party, within 120 days after the end of each fiscal year the other non-requesting party will provide its, or, if it has a Guarantor, its Guarantor’s, annual audited financial statements prepared in accordance with generally accepted accounting principles or international financial reporting standards fairly presenting the financial condition of the applicable entity; provided, however, in the event such entity is required

to make its annual audited financial statements available to the public, then the other party shall use public sources to obtain the information.”

- Section 10.2 is amended by:
  - (a) adding the phrase “, provided that such amount is not the subject of a bona fide dispute pursuant to Section 7.4” immediately after “such payment is due”, in line (9);
  - (b) deleting word “or” in front of “(ix) in line (9);
  - (c) adding the phrase “ (x) be the subject of a Merger Event; or (xi) with respect to a party’s Guarantor only, the failure of such Guarantor’s guaranty to be in full force and effect for purposes of this Contract (other than in accordance with its terms) prior to the satisfaction of all obligations of such party under each transaction to which such guaranty shall relate;” before “then the other party” in line (10); and
  - (d) adding the phrase “, provided that no suspension of performance shall continue for more than ten (10) Days unless an Early Termination Date has been declared and the Defaulting Party has been given Notice thereof in accordance with Section 10.3.” before “.” at the end of the section.
- Section 10.5 is deleted in its entirety and replaced with the following:

“10.5 (a) The parties understand and agree that (i) transaction(s) hereunder constitute “forward contracts” within the meaning of title 11 of the United States Bankruptcy Code (the “Bankruptcy Code”); (ii) each of the parties is a “forward contract merchant” within the meaning of the Bankruptcy Code with respect to any transactions that constitute “forward contracts”; (iii) all payments made or to be made by one party to the other party pursuant to this Contract constitute “settlement payments” or “transfers” within the meaning of the Bankruptcy Code; (iv) all transfers of credit support by one party to the other party under this Contract constitute “margin payments” or “transfers” within the meaning of the Bankruptcy Code; (v) under Section 10 “Financial Responsibility” of this Contract, each party has a “contractual right to liquidate” the transactions within the meaning of Section 556 of the Bankruptcy Code, and (vi) if the parties have elected to have Section 7.7, Netting, apply to this Contract, then (1) this Contract constitutes a “master netting agreement” within the meaning of the Bankruptcy Code and (2) each party is deemed as a “master netting agreement participant” within the meaning of the Bankruptcy Code.

(b) for purposes of this Contract, neither party is a “utility” as such term is used in Section 366 of the Bankruptcy Code, and each party agrees to waive and not to assert the applicability of the provisions of said Section 366 in any bankruptcy proceeding wherein such party is a debtor. In any such proceeding, each party further agrees to waive the right to assert that the other party is a provider of last resort.

(c) each party shall be entitled to exercise its rights and remedies, as set forth under this Contract, in accordance with the safe harbor provisions of the Bankruptcy Code, including without limitation those in Sections 362(b)(6), 546(e), 548(d)(2), 553(b)(1), 556 and 561 thereof.”

- Section 10.6 is amended by adding the phrase “other than as a result of the occurrence of the Early Termination Date” at the end of the second sentence.

## **SECTION 11. FORCE MAJEURE:**

- Section 11.1 is amended by adding the following after the words “claiming suspension” and before “, as further defined” in the last sentence thereof: “or its Affiliates and such cause could not reasonably have been foreseen and avoided by the party claiming suspension or its Affiliates”.

**SECTION 12: TERM**

- Section 12 is amended by adding “Section 6” and “Section 15.10 (for one year),” to the list of Sections in the second sentence and by adding the following after the first sentence: “Notwithstanding the foregoing, the Base Contract shall terminate three (3) years after effective date unless earlier terminated pursuant to its terms, provided that the Base Contract may be extended for two (2) successive one-year terms upon mutual agreement of the parties at least thirty (30) days prior to the end of the then-effective term.”

**SECTION 14: MARKET DISRUPTION**

- Section 14 is amended by deleting clause (e) and replacing it with the following:

“(e) both parties, each acting commercially reasonably, agree that a material change in the formula for or the method of determining the Floating Price has occurred, or that a material change in market conditions has occurred which has not yet been adequately addressed by the applicable index.”

**SECTION 15. MISCELLANEOUS:**

- The following text shall be added to the end of Section 15.5:

“EACH PARTY HEREBY WAIVES ITS RIGHT TO A JURY TRIAL, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW.”

- Section 15.10 is amended by:

(a) deleting the parenthetical in line (2) and replacing it with the following: “(other than the employees, lenders, royalty owners, counsel, accountants and other agents of the party, or the party’s Affiliates and the Affiliates’ employees, lenders, royalty owners, counsel, accountants and other agents, or prospective purchasers of all or substantially all of a party’s assets or of any rights under this Contract, provided such persons shall have agreed to keep such terms confidential)”;

(b) deleting the word “or” in line (7); and

(c) adding the phrase “(vi) information that is or becomes generally available to the public other than as a result of a disclosure by the receiving party, (vii) information that was already in a party’s files on a non-confidential basis prior to disclosure.” after the word “index” prior to the period in line (8).

- Add the following at the end of Section 15.10:

Notwithstanding the foregoing or any other provision of this Contract, Party A acknowledges that Party B, as a home rule charter county of Washington State, is subject to the Washington State Public Records Act, Ch. 42.56 RCW (the “PRA”), and Party A agrees that Party B shall not be in breach of this Contract or have any liability whatsoever under this Contract or otherwise for any claims or causes of action whatsoever resulting from or arising out of Party B’s copying or releasing to a third party any of the information of Party A when ordered or instructed to do so by a court of competent jurisdiction, or when, in the professional judgment of Party B’s counsel, Party B is compelled to permit such disclosure or copying or else risk civil liability, provided, however, that Party B shall, to the maximum extent permitted by law, (i) provide timely notice to Party A of any public records request, claim or action reasonably placing at risk the release of any information of Party A, (ii) permit Party A to intervene therein, or initiate an action to enjoin release of such information, at Party A’s own cost and expense, and (iii) permit Party A to propose certain redactions to any responsive materials solely if and to the extent that, in the professional judgment of Party B’s counsel, such redactions are permitted by the PRA and applicable law.

- Add the following as the new Section 15.13:

“15.13 Standard of Review:

(a) Absent the agreement of all parties to the proposed change, the standard of review for changes to any rate, charge, classification, term or condition of this Contract, whether proposed by a party (to the extent that any waiver in subsection (b) below is unenforceable or ineffective as to such party), a non-party or FERC acting *sua sponte*, shall solely be the “public interest” application of the “just and reasonable” standard of review set forth in *United Gas Pipe Line Co. v. Mobile Gas Service Corp.*, 350 U.S. 332 (1956) and *Federal Power Commission v. Sierra Pacific Power Co.*, 350 U.S. 348 (1956) (the “Mobile-Sierra” doctrine), and clarified in *Morgan Stanley Capital Group, Inc. v. Public Util. Dist. No. 1 of Snohomish*, 554 U.S. 527, 128 S. Ct. 2733 (2008) and *NRG Power Mktg., LLC v. Me. Pub. Utils. Comm’n*, 558 U.S. 165, 130 S. Ct. 693 (2010).

(b) In addition, and notwithstanding the foregoing subsection (a), to the fullest extent permitted by applicable law, each party, for itself and its successors and assigns, hereby expressly and irrevocably waives any rights it can or may have, now or in the future, to seek to obtain from FERC by any means, directly or indirectly (through complaint, investigation or otherwise), and each hereby covenants and agrees not at any time to seek to obtain, an order from FERC changing any section or transaction of or under this Contract specifying the rate, charge, classification, or other term or condition agreed to by the parties, it being the express intent of the parties that, to the fullest extent permitted by applicable law, neither party shall unilaterally seek to obtain from FERC any relief changing the rate, charge, classification, or other term or condition of this Contract, notwithstanding any subsequent changes in applicable law or market conditions that may occur.”

- Add the following as the new Section 15.14:

“15.14. (i) Eligible Contract Participant. At the time of each transaction entered into under this Contract, each party represents to the other party that it is an eligible contract participant as defined in Section 1a(18) of the U.S. Commodity Exchange Act (“CEA”) and CFTC Regulations promulgated thereunder (an “ECP”).

(ii) Commodity Trade Option. With respect to each transaction that is a Commodity Trade Option, as of the date the transaction is entered into:

(a) The party that is the offeree represents that: (i) it is a producer, processor, commercial user of, or merchant handling, the commodity that is the subject of the Commodity Trade Option, or the products or byproducts thereof; (ii) it is entering into the Commodity Trade Option solely for purposes related to its business as such; and

(b) Each party represents to the other that the Commodity Trade Option, if exercised, contains a binding obligation that results in the sale of the specified nonfinancial commodity for immediate or deferred shipment or delivery.

For purposes of this Contract:

“CFTC” means the U.S. Commodity Futures Trading Commission.

“CFTC Regulations” means the rules, regulations, orders and interpretations published or issued by the CFTC.

“Commodity Trade Option” means a commodity option (as that term is defined in CFTC Regulation 1.3(hh)) entered into pursuant to CFTC Regulation 32.3(a).”

- Add new Section 15.15 as follows:

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

- Add the following as Section 15.16:

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

[signature page(s) follow(s)]

**IN WITNESS WHEREOF**, the parties have caused these Special Provisions to be duly executed as of the Effective Date.

**King County, through its Department of Natural Resources and Parks – Solid Waste Division**

**Karbone Energy LLC**

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: Rebecca Singer

Name: Jonathan Burnston

Title: Solid Waste Division Director

Title: Managing Director

## TRANSACTION CONFIRMATION

	<b>Trade Date:</b> [N/A] <b>Contract:</b> NAESB Base Contract dated [ ], Karbone Energy LLC / King County
<p>This Transaction Confirmation (this “TC”) is subject to the Base Contract, RNG Addendum and Special Provisions between Seller and Buyer dated [xxxxx xx], 202X.</p> <p>The terms of this TC are binding upon execution by the Parties. Capitalized terms not otherwise defined in this TC have the meanings ascribed to such terms in the Base Contract.</p>	
<b>BUYER:</b> <b>Karbone Energy LLC</b> <b>675 Third Avenue, 31<sup>st</sup> Floor</b> <b>New York, NY 10017</b>  Attn: Commodities Group Email: accounting@karbone.com Phone: (646) 291 2900 Base Contract No. _____	<b>SELLER:</b> <b>King County, through its Department of Natural Resources and Parks – Solid Waste Division</b> <b>201 S Jackson St, Suite 6400</b> <b>Seattle, WA 98104</b>  Attn: Lindy Honaker Email: lhonaker@kingcounty.gov Phone: (206) 263-6739 Base Contract No. _____
<p><b><u>Purpose:</u></b></p> <p>This TC regards the sale and purchase of RNG, which includes associated Environmental Attributes. References to “Gas” in <u>Section 3.2</u> of the Base Contract and the Special Provisions of the Base Contract will include “RNG” and apply to the RNG sale and purchase transactions addressed in this TC.</p>	
<p><b><u>Contract Price:</u></b></p> <p>The Contract Price for Environmental Attributes shall be paid by Buyer to Seller and shall equal (select one):</p> <p><input type="checkbox"/> The sum of the Gas Price and the Environmental Attribute Contract Price; or</p> <p><input type="checkbox"/> The Environmental Attribute Contract Price.</p> <p><b>Gas Price:</b> Per MMBtu delivered to Buyer, the midpoint shown in the Daily Price Survey as published in Platts Gas Daily on the date of delivery of such MMBtu, provided that notwithstanding the foregoing, the parties acknowledge and agree Buyer will be deemed to have delivered to Seller, an equivalent quantity of MMBtu’s at the Buyer’s delivery point as the Contract Quantity delivered hereunder, such that the physical/thermal Gas transactions contemplated hereby offset and no payment shall be due from either party for the Gas Price or for the physical/thermal value of the Gas.</p> <p><b>Environmental Attribute Contract Price.</b> [The Environmental Attribute Contract Price shall be provided and captured through transaction confirmations based on pricing provided to King County reflecting current market conditions and supported by Documentation available to the County at the time of payment. Marketing prices to be paid to Karbone for any and all attributes sold and purchased hereunder based on different attribute markets are detailed below.] For the applicable TC, the Environmental Attribute Contract Price shall be (select all that apply):</p> <p><b>A. Renewable Thermal Certificate (“RTC”) Contract Price.</b> For RNG sold hereunder for which RTCs are generated in any Month, Buyer shall remit, in immediately available funds, the amount due to Seller for Seller’s RTCs Share within thirty (30) days after Buyer’s receipt of payment from the sale of RTCs generated from such RNG. Buyer shall make commercially reasonable efforts to monetize the RTCs within 45 days from the date of RTC generation. For example, the standard Seller’s RTCs Share payment to Seller for Seller’s June gas production volume will be paid by Buyer on or before the 14th of August.</p> <p><input type="checkbox"/> <b>Fixed Price.</b> Buyer shall pay Seller \$ ____ per Renewable Thermal Certificate (“RTC”) for Seller’s RTC Share.</p> <p>“Seller’s RTC Share” shall mean, for each Month in which RTCs are generated and sold in connection with RNG sold and purchased hereunder, payment at the above price based on 95.5% of the total quantity of RTCs generated for such Month.</p>	

**B. RIN Contract Price.** For RNG sold hereunder for which D3 RINs are generated in any Month, Buyer shall remit, in immediately available funds, the amount due to Seller for Seller's RIN Share within thirty (30) days after Buyer's receipt of payment from the sale of D3 RINs generated from such RNG. Buyer shall make commercially reasonable efforts to monetize the D3 RINs within 45 days from the date of RIN generation. For example, the standard Seller's RIN Share payment to Seller for Seller's June gas production volume will be paid by Buyer on or before the 14th of August. Notwithstanding the foregoing, Seller and Buyer may mutually agree by electronic communication such as e-mail to delay RIN monetization in an attempt to increase the value of the RINs to both parties if "RIN Sales Price" is selected below. For the applicable TC, the price payable to Seller for RINs generated in any Month shall be (select one):

**Fixed Price.** Buyer shall pay Seller \$ \_\_\_\_ per D3 K1 RIN for Seller's K1 RIN Share.

"**Seller's K1 RIN Share**" shall mean, for each Month in which D3 K1 RINs are generated and sold in connection with RNG sold and purchased hereunder, payment at the above price based on 96.5% of the total quantity of D3 K1 RINs generated for such Month.

**RIN Index Price.** Buyer shall pay Seller the RIN Index Price for Seller's RIN Share.

"**Seller's RIN Share**" shall mean, for each Month in which RINs are generated and sold in connection with RNG sold and purchased hereunder, payment at the RIN Index Price based on 97.5% of the total quantity of RINs generated for such month.

"**RIN Index Price**" shall mean the average D3 Cellulosic RIN price calculated on a [\_\_\_\_\_] basis for the applicable Month as listed on the [\_\_\_\_\_] Index (the "**RIN Index**"), less any direct third-party expenses reasonably incurred by Buyer for the generation and verification of such RINs. Buyer will provide documentation for all expenses deducted and will minimize such expenses if commercially reasonable, as determined by Buyer in its discretion.

**RIN Sales Price.** Buyer shall pay Seller the RIN Sales Price for Seller's RIN Share.

"**Seller's RIN Share**" shall mean, for each Month in which RINs are generated and sold in connection with RNG sold and purchased hereunder, payment based on 97.5% of the total quantity of RINs generated for such month.

"**RIN Sales Price**" used to calculate the amounts due and payable by Buyer to Seller for a given Month shall equal one hundred percent (100%) of the cash revenue realized by Buyer during such Month from the sale of D3 RINs associated with RNG delivered by Seller to Buyer under this TC less any direct third-party expenses reasonably incurred by Buyer for the generation, verification and sale of such RINs. Buyer will provide documentation for all expenses deducted and will minimize such expenses if commercially reasonable, as determined by Buyer in its discretion.

**C. LCFS Contract Price.** For RNG sold hereunder for which LCFS Credits are generated in any Month, Buyer shall remit, in immediately available funds, the amount due to Seller for Seller's LCFS Credit Share within thirty (30) days after Buyer's receipt of payment from the sale of LCFS Credits generated from such RNG. Buyer shall make commercially reasonable efforts to monetize the LCFS Credits within 45 days from the date of LCFS Credit generation. For example, the standard Seller's LCFS Credit Share payment to Seller for Seller's June gas production volume will be paid by Buyer on or before the 14th of August. Notwithstanding the foregoing, Seller and Buyer may mutually agree to delay LCFS Credit monetization in an attempt to increase the value of the LCFS Credits to both parties if "LCFS Credit Sales Price" is selected below. For the applicable TC, the price payable to Seller for LCFS Credits generated in any Month shall be (select one):

**LCFS Credit Index Price.** Buyer shall pay Seller the LCFS Credit Index Price for Seller's LCFS Credit Share.

"**Seller's LCFS Credit Share**" shall mean, for each Month in which LCFS Credits are generated and sold in connection with RNG sold and purchased hereunder, payment based on 97.5% of the total quantity of LCFS Credits generated for such month.

"**LCFS Credit Index Price**" shall mean the average LCFS Credit price calculated on a [\_\_\_\_\_] basis for the applicable Month as listed on the [\_\_\_\_\_] Index (the "**LCFS Index**"), less any direct third-party expenses reasonably incurred by Buyer for the generation and verification of such LCFS Credits. Buyer will provide documentation for all expenses deducted and will minimize such expenses if commercially reasonable, as determined by Buyer in its discretion.

**LCFS Credit Sales Price.** Buyer shall pay Seller the LCFS Credit Sales Price for Seller's LCFS Credit Share.

"**Seller's LCFS Credit Share**" shall mean, for each Month in which LCFS Credits are generated and sold in connection with RNG sold and purchased hereunder, payment based on 97.5% of the total quantity of LCFS Credits generated for such month.

“**LCFS Credit Sales Price**” used to calculate the amounts due and payable by Buyer to Seller for a given Month shall equal one hundred percent (100%) of the cash revenue realized by Buyer during such Month from the sale of LCFS Credits associated with RNG delivered by Seller to Buyer under this TC less any direct third-party expenses reasonably incurred by Buyer for the generation, verification and sale of such LCFS Credits. Buyer will provide documentation for all expenses deducted and will minimize such expenses if commercially reasonable, as determined by Buyer in its discretion.

Payment of the Seller’s LCFS Credit Share is contingent upon Buyer being able to utilize Environmental Attributes purchased under this TC, coupled with Gas, as Transportation Fuel in the state of California, Oregon, Washington, British Columbia (or other state or jurisdiction that has in force any program allowing the generation of carbon credits from the production and use of low carbon fuels), and the production and sale of LCFS Credits from such Environmental Attributes.

**D. Other RNG Credit Contract Price.** For RNG sold hereunder for which any other RNG Credit(s) are generated in any Month, Buyer shall remit, in immediately available funds, the amount due to Seller for Seller’s RNG Credit Share within thirty (30) days after Buyer’s receipt of payment from the sale of RNG Credits generated from such RNG. Buyer shall make commercially reasonable efforts to monetize the RNG Credits within 45 days from the date of RNG Credit generation. For example, the standard Seller’s RNG Credit Share payment to Seller for Seller’s June gas production volume will be paid by Buyer on or before the 14th of August.

**Fixed Price.** Buyer shall pay Seller \$\_\_\_\_\_ per RNG Credit for Seller’s RNG Credit Share.

“**Seller’s RNG Credit Share**” shall mean, for each Month in which RNG Credits are generated and sold in connection with RNG sold and purchased hereunder, payment at the above price based on [\_\_\_\_\_] % of the total quantity of RNG Credits generated for such Month.

“**RNG Credits**” with respect to this TC shall mean renewable natural gas-related environmental attributes sold into markets that could include, but are not limited to: International Sustainability & Carbon Certification (ISCC) European Union system; maritime renewable natural gas or liquified natural gas; or any other renewable natural gas-related environmental attribute markets not included and/or that can be combined with the pricing structures as detailed in sections A., B., and C. of this section.

**Delivery Period:**

The “**Delivery Period**” shall begin on [\_\_\_\_\_] (“**Start Date**”) and continue through [\_\_\_\_\_] . This TC can be extended upon mutual agreement of the Parties, pursuant to the terms and conditions set forth in this TC.

**Contract Quantity:** Seller shall sell and Buyer shall purchase the Contract Quantity on the following basis (select one):

**Firm (Fixed Quantity):** \_\_\_\_\_ MMBtu/day; or

**Firm (Variable Quantity (MaxDQ and MinDQ)):**

- **Maximum Daily Quantity.** Buyer shall have a Firm obligation to purchase and receive from Seller each Day of the Delivery Period up to [\_\_\_\_\_] MMBtu per day as established in each sale Transaction Confirmation (“**MaxDQ**”). MaxDQ does not include any **Retained Quantities**.
- **Minimum Daily Quantity.** Seller shall have a Firm obligation to sell and deliver to Buyer each Day of the Delivery Period no less than [\_\_\_\_\_] MMBtu per day as established in each sales Transaction Confirmation (“**MinDQ**”). For clarity, the MinDQ may be a quantity of zero at any one time and does not include any **Retained Quantities**.

**Seller Retained RNG and Environmental Attributes.** Notwithstanding anything in this Transaction Confirmation, Seller retains the right, during the term of this TC, to all RNG (including associated Environmental Attributes) produced at the Facility each month that are not sold and delivered from Seller to Buyer hereunder (the **Retained Quantities**). Seller may sell and deliver any or all of the Retained Quantities to one or more other buyers.

**Contract Quantity Conditions**

The Contract Quantity shall be governed by different Applicable Programs (select one): Yes  No  (default)

If yes, (Check all that apply) (Complete with a specific quantity, percentage, and/or priority, if applicable)

RINs corresponding to \_\_\_\_\_ of RNG

RTCs corresponding to \_\_\_\_\_ of RNG

LCFS Credits corresponding to \_\_\_\_\_ of RNG

or

Other: \_\_\_\_\_

**Performance Obligation:**

**Sale and Purchase Obligation.** Seller shall sell and deliver to Buyer, and Buyer shall purchase and receive from Seller the Contract Quantity. Through such delivery, Buyer shall maintain and have the firm claim and responsibility for the generation of all LCFS Credits and any other environmental credits or such equivalent associated with Environmental Attribute deliveries under this TC, with the exception of 45Z Federal Tax Credits and assigned RINs. Buyer shall pay the Environmental Attribute Contract Price as detailed in each future Transaction Confirmation to Seller.

Subject to Buyer's obligations under Section 2 of the Special Provisions in this TC, the Parties acknowledge and agree that Environmental Attributes coupled with Gas must have an end-use for Transportation Fuel compliant with RFS2 (for RIN generation), or compliant with the LCFS or similar state- or regional-level program (for LCFS Credit generation) and the End-Use Location(s) location(s) must be in a state or jurisdiction that has in force any program allowing the generation of carbon credits from the production and use of low carbon fuels. The Contract Quantity of Environmental Attributes sold hereunder will be eligible and compliant with the requirements of the applicable program governing such Environmental Attributes.

**Delivery Point:**

The "**Delivery Point**" for the RNG shall be the Cedar Hills Meter Station of Northwest Pipeline, Section 28, T-23N, R-6E, King County, Washington.

**Applicable Program:** The Applicable Program for RNG sold by Seller and purchased by Buyer shall be governed by the following entity: (select at least one, but not US EPA Renewable Fuel Standard AND Renewable Thermal Credit)

- US EPA Renewable Fuel Standard (RFS2)
- Low Carbon or Clean Fuel Standard – State: \_\_\_\_\_ (insert State or Governing Jurisdiction)
- Renewable Thermal Credit - \_\_\_\_\_ (insert State or Governing Jurisdiction)
- or
- Other: \_\_\_\_\_

**Program Administrator** (Complete this section if not identified in the Applicable Program):

Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Email Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_

**RNG and Environmental Attributes:** The RNG sold by Seller and purchased by Buyer shall include all Environmental Attributes unless otherwise excluded: (select and identify all that apply)

- RNG with all Environmental Attributes (default),
- List of Environmental Attributes excluded from RNG,
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

or

Other: \_\_\_\_\_

**Facility Information:** The Performance Obligation for the Contract Quantity shall be fulfilled from the following facilities:

Yes (default) or  No

If yes, complete the following information for each facility:

Facility Name: Cedar Hills Landfill biogas processing facility

Address: 16645 228<sup>th</sup> Avenue SE, or Latitude/Longitude:

City: Maple Valley

County or Parish: King County

State or Province: Washington

Country: United States

**Generation Information System:** The GIS of the Applicable Program:-(select parties' mutually agreed GIS and insert GIS name)

GIS: \_\_\_\_\_

Attestation: \_\_\_\_\_

or

Other: \_\_\_\_\_

### Registration

Party responsible for percentage of initial registration costs and fees

Buyer Percentage at \_\_\_%

Seller Percentage at 100%

Party responsible for percentage of ongoing registration costs and fees

Buyer Percentage at 100%

Seller Percentage at \_\_\_%

### Special Provisions:

#### 1. Definitions.

“**Affected Party**” shall have the meaning set forth in Section 8(B) of the Special Provisions in this TC.

“**Affiliate**” means with respect to a person or entity, a person or entity that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with such person; provided that with respect to Buyer, the term “**Affiliate**” refers exclusively to Karbone and the entities controlled by Karbone.

“**Alternative Fuel**” means any transportation fuel that is not California reformulated gasoline or a diesel fuel, including, but not limited to, those fuels specified in the California LCFS Regulations.

“**Biogas**” means a mixture of biomethane, inert gases, and impurities that meets all the following requirements:

A. It is produced through the anaerobic digestion of renewable biomass under an approved pathway.

B. Non-renewable components have not been added.

C. It requires removal of additional components to be suitable for its designated use (e.g., as a biointermediate, to produce RNG, or to produce biogas-derived renewable fuel).

“**Biogas Producer**” has the meaning given to such term under RFS2. As of the Effective Date, the applicable meaning is “any person who owns, leases, operates, controls, or supervises a biogas production facility”.

“**Biogas Production Facility**” means a facility producing Biogas from which the RNG purchased and sold hereunder is produced.

“**Biogas Token**” means a representation in EMTS of RNG production reported in EMTS by a Biogas Producer equal to 1 MMBtu of Biogas at HHV (high heating value).

“**CARB**” means the California Air Resources Board or its successor agency. If operating outside of California, any reference herein to CARB shall also be inclusive of any state entity equivalent in the relevant jurisdiction.

“**Carbon Intensity**” means the amount of Lifecycle Greenhouse Gas Emissions, per unit of energy of fuel delivered, expressed in grams of carbon dioxide equivalent per megajoule (gCO<sub>2</sub>E/MJ) as calculated in the applicable version of the California GREET model and approved by CARB.

“**Cellulosic Biofuel**” means a renewable fuel derived from any cellulose, hemi-cellulose or lignin that has Lifecycle Greenhouse Gas Emissions that are at least sixty percent (60%) less than the Baseline Lifecycle Greenhouse Gas emissions (as set forth in the RFS2).

“**CNG**” means compressed natural gas.

“**D3 RIN**” means a D3 Cellulosic Biofuel RIN as established by the Federal Renewable Fuel Standard Program.

“**Delivery Period**” shall have the meaning set forth in the Section titled Delivery Period in this TC.

“**Disqualified RNG**” means Gas that was initially determined by the Parties upon delivery to be RNG but subsequently becomes disqualified as RNG and ineligible to generate RINs and/or LCFS Credits because it does not qualify as a renewable fuel under the EPA Renewable Fuel Standard or the LCFS, as applicable.

“**Documentation**” shall have the meaning of actual attribute sales price invoices or statements prior to Karbone’s marketing fees.

“**End-Use Location(s)**” means location(s) where Environmental Attributes purchased by Buyer under this TC are to be used for Transportation Fuel purposes, which will be listed on the applicable documentation provided by Buyer to EPA under the RFS2 in connection with generating RINs from such Environmental Attributes.

“**Environmental Attributes**” means the aspects, elements, and benefits that determine the type and extent of impact to the environment, and that are associated with, and attributable to the Gas. Further, Environmental Attributes include the aspects, elements, and benefits attributable to, created by, or caused by: (i) distinguishing RNG from geological natural gas; (ii) the capture or avoidance of Lifecycle Greenhouse Gas Emissions; (iii) the capture or avoidance of emissions of pollutants to air, soil, or water; (iv) the character of the feedstock source of the Gas, including whether it is renewable, sustainable, cellulosic, advanced, biogenic, biomass-based and/or waste-derived; (v) the displacement of another fuel or energy source by RNG; and (vi) any attributes which are a necessary prerequisite to the creation of RNG certificates, RNG Credits, offsets or allowances specified and sold herein. Environmental Attributes do not include: (i) tax credits; (ii) any Environmental Attributes specified as excluded in this TC; (iii) grants, loans, or subsidies; or (iv) emission reduction credits encumbered or used by the Facility for compliance with local, state, or federal operating and/or air quality permit..

“**Environmental Attribute Contract Price**” shall have the meaning set forth in the Section titled Contract Price in this TC.

“**EPA**” means the United States Environmental Protection Agency or its successor.

“**Gas**” shall mean any mixture of hydrocarbons and noncombustible gases in a gaseous state consisting primarily of methane.

“**K1 RIN**” means an ‘Assigned RIN’, as such term is defined under RFS2.

“**K2 RIN**” means a “Separated RIN”, as such term is defined under RFS2 pursuant to § 80.1428(b).

“**Law**” shall have the meaning set forth in Section 8(C) of the Special Provisions in this TC.

“**Lifecycle Greenhouse Gas Emissions**” means the aggregate quantity of carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulphur hexafluoride, or any other substances or combination of substances that may become regulated as greenhouse gases under any federal, state or local laws, in each case measured in increments of one metric tonne of carbon dioxide equivalent (collectively, “**Greenhouse Gases**”), emissions, as determined by the EPA or another regulatory agency, related to the full fuel lifecycle, where mass values for all Greenhouse Gases are adjusted to account for their relative global warming potential.

“**Low Carbon Fuel Standard**” or “**LCFS**” means the California Air Resources Board Low Carbon Fuel Standard set forth in the California Code of Regulations at Title 17, Division 3, Chapter 1, Subchapter 10, Article 4, §§ 95480 – 95503, as amended from time to time (hereinafter the “**California LCFS Regulations**”). If operating outside of California, any reference herein to LCFS shall also be inclusive of any state entity equivalent in the relevant jurisdiction, including but not limited to the regulations, orders, decrees and standards issued by a governmental authority implementing or otherwise applicable to the Oregon Clean Fuels Program as set forth in OAR chapter 340, division 253 as defined in OAR 340-253-0060(4) and each successor regulation, as may be subsequently amended, modified, or restated from time to time (the “**CFP**”) and the Washington Clean Fuel Standard set forth in the Revised Code of Washington at Title 70A, Chapter 70A.535, as amended from time to time (the “**CFS**”).

“**Low Carbon Fuel Standard Credits**” or “**LCFS Credits**” means credits generated and traded under the Low Carbon Fuel Standard, with each credit equal to one metric tonne of carbon dioxide equivalent reductions as compared to the baseline carbon dioxide equivalent emissions under the Low Carbon Fuel Standard. If operating outside of California, any reference herein to LCFS Credits shall also be inclusive of any state entity equivalent in the relevant jurisdiction, including but not limited to any credits generated and traded under the CFP and the CFS.

“**LCFS Credit Value**” shall have the meaning set forth in Section 5(D) of the Special Provisions in this TC.

“**LNG**” means liquified natural gas.

“**MaxDQ**” shall have the meaning set forth in the Section titled Contract Quantity in this TC.

“**MinDQ**” shall have the meaning set forth in the Section titled Contract Quantity in this TC.

“**Non-Affected Party**” shall have the meaning set forth in Section 8(B) of the Special Provisions in this TC.

“**OPIS**” means the Oil Price Information Service, or successor thereto, and its publications and daily reports covering the physical spot market for renewable fuels and related environmental credit/carbon values across the United States.

“**Party(ies)**” means, singularly, Buyer or Seller and, plurally, both Buyer and Seller.

“**Product Transfer Document**” or “**PTD**” means a document or a set of documents that authenticates the transfer of ownership of fuel from a regulated party to the recipient of fuel. A PTD is created by a regulated party to contain information collectively supplied by other fuel transaction documents, including bills of lading, invoices, contracts, meter tickets, rail inventory sheets, etc. per 40 C.F.R. § 80.1453 of the RFS2 and as per Section 95491(c) of the California LCFS Regulations.

“**Project**” means the King County Cedar Hills biogas processing facility, 16645 228th Avenue SE, Maple Valley, WA 98038.

“**Q-RIN**” means a RIN that has been reviewed and validated by an approved QAP provider.

“**Quality Assurance Plan**” or “**QAP**” means the voluntary RIN validation program implemented under 40 C.F.R. § 80.1469 to § 80.1473 whereby independent third parties audit the production of the renewable fuel and monitor on a monthly and quarterly basis to ensure that RINs have been validly generated, which as applies to RINs under the RFS2 was published on July 18, 2014 (at 79 Fed. Reg. 42078) and which became effective on September 16, 2014.

“**Regulatory Event**” shall have the meaning set forth in Section 8(B) of the Special Provisions in this TC

“**Renewable Identification Number**” or “**RIN**” “means a renewable identification number generate pursuant to RFS2. Unless specified or the context requires otherwise, references to “RIN” in this TC refer to K2 RINs (Separated RINs).

“**Renewable Natural Gas**” or “**RNG**” means a mixture of hydrocarbons that is a gas at 60 degrees Fahrenheit and 1 atmosphere of pressure from the Facility that is (i) produced from Biogas, (ii) upgraded to meet standards for injection to a natural gas commercial pipeline system without removal of additional components and (ii) transfers the equivalent quantity of Environmental Attributes to Buyer.

“**RIN Share**” shall have the meaning set forth in the Section titled Contract Price in this TC.

“**RIN Value**” has the meaning set forth in Section 4(H) of the Special Provisions in this TC.

“**RFS2**” means the Renewable Fuel Standard Program under the Energy Policy Act of 2005, and the Energy Independence and Security Act of 2007 and implementing regulations, including, without limitation, 40 C.F.R. Subpart 80, Subparts A, E and M, as the same may be amended, supplemented or restated from time to time, including any successor program.

“**RNG**” means a product that (1) is produced from Biogas; (2) does not require removal of additional components to be suitable for injection into the natural gas commercial pipeline system and (3) is used to produce renewable fuel.

“**RNG Contract Price**” shall have the meaning set forth in the Section titled Contract Price in this TC.

“**RNG Credit(s)**” shall mean a credit, number or certificate generated from, attributable to, or representing RNG under an Applicable Program (as selected above), including without limitation: K1 RINs; Q-RIN; K2 RINs, LCFS; RTC; or other equivalent regulatory or voluntary credits.

“**RNG Producer**” has the meaning given to such term under RFS2. As of the Amendment Date, the applicable meaning is “any person who owns, leases, operates, controls, or supervises an RNG production facility”.

“**Sales Price**” shall mean the product of the Contract Price multiplied by the Contract Quantity for each Delivery under this TC.

“**Start Date**” shall have the meaning set forth in the Section titled Delivery Period in this TC.

“**Transportation Fuel**” has the meaning given to such term under RFS2. As of the Amendment Date, the applicable meaning is “fuel for use in motor vehicles, motor vehicle engines, nonroad vehicles or nonroad engines (except fuel for use in ocean-going vessels)”.

“**Transportation Fuel Producer**” or “**TFP**” means an entity with which Buyer or Buyer’s affiliate is contractually engaged to sell and deliver Environmental Attributes of RNG purchased from Seller under this TC to be combined with Gas and consumed as Transportation Fuel.

## 2. Buyer Commitments.

- A. Cause all RNG sold and purchased hereunder to be dispensed as Transportation Fuel in accordance with RFS2 and, as applicable, the LCFS;
- B. Act in good faith in the sale of RNG, Gas, and Environmental Attributes purchased by Buyer hereunder and the separation and sale of RINs and LCFS Credits therefrom, use commercially reasonable efforts to maximize the proceeds received by Buyer from such sales, and include all proceeds received by Buyer from such sales in the calculation of the Contract Price, if applicable;

## 3. Additional Terms and Conditions.

- A. **Nominations.** If “Firm (Variable Quantity)” is selected in Contract Quantity above, Seller will provide Buyer with its nominated daily quantity of RNG, based on the Project’s projected RNG production schedule and Seller’s projected deliveries at the Delivery Point at no less than the MinDQ and up to the MaxDQ, unless otherwise accepted by Buyer and Seller, for each Month of the Delivery Period per the conditions as provided below:
- a No less than thirty (30) days prior to the end of any calendar year, Seller shall nominate daily expected quantities to Buyer for the subsequent year.
  - b No less than ten (10) days prior to each delivery Month, Seller shall submit to Buyer changes to daily nominated quantities for said upcoming delivery month.
  - c Mid-month changes to daily nominated quantities are due from Seller to Buyer by 8:00 a.m. Eastern Standard Time, one (1) day prior to each said daily delivery or weekend/holiday trading period.
  - d Any material changes to expected deliveries above shall be reported from Seller to Buyer promptly following Seller identifying such changes.
- B. **Delivery and Use of RNG.** For all Environmental Attributes sold and purchased under this TC between Seller and Buyer, Seller represents and warrants that:
- a it has the right and title to all Environmental Attributes transferred hereunder, which were produced from the Project, and will convey to Buyer all such Environmental Attributes in accordance with the requirements of RFS2 and, as applicable, the LCFS in order to preserve the ability to separate RINs and generate LCFS Credits, and it will not take any action that would result in the Environmental Attributes not satisfying the requirements of RFS2 and, as applicable, the LCFS;
  - b Seller has not and will not generate RINs or LCFS Credits nor represent the fuel for sale as RNG with the ability to generate RINs to any other party;
  - c Seller has not and will not generate RINs or LCFS Credits under any renewable energy or fuel program, including but not limited to any state Renewable Portfolio Standard, for any and all RNG sold to Buyer.
  - d the Environmental Attributes have not been used by Seller other than for the generation of K1 RINs, or sold or transferred by Seller to any third party prior to transfer to Buyer;
  - e the Environmental Attributes delivered to Buyer hereunder are from RNG of pipeline quality that, when dispensed as Transportation Fuel, meet the requirements of RFS2 and, as applicable, the LCFS; and
  - f all information provided by Seller to Buyer relating to this TC shall be accurate and complete in all material respects.
- C. **Disqualified RNG.** Each Party will promptly notify the other Party in the event that any RNG is determined to be Disqualified RNG. As applies to end-use as Transportation Fuel, Buyer and Seller acknowledge and agree that (a) Disqualified RNG may be eligible to generate LCFS Credits as a non-renewable Transportation Fuel via the applicable pathway under the LCFS, and (b) each Party will promptly provide any documentation or supporting information reasonably requested by Buyer related to the Disqualified RNG.
- D. **Regulatory Certifications.** Seller shall provide to Buyer all documentation required by the EPA and/or CARB to (i) certify that the Environmental Attributes sold and purchased hereunder were from a Cellulosic Biofuel eligible to generate RINs or Q-RINs (with respect to RFS2) and, as applicable, create a low Carbon Intensity pathway (with respect to the LCFS) for generation of LCFS Credits, and (ii) assist with the certification of RINs, Q-RINs or LCFS Credits. This documentation will include, but is not limited to, all documentation required to certify that production of the RNG and transportation of the Environmental Attributes of RNG from its point of production to the Delivery Point is compliant with the transportation routing requirements (“pathing”) of the RFS2 and LCFS and any producer documentation required following delivery of Environmental Attributes of RNG to Buyer. Additional documentation may include any affidavits, reporting or attestations required by the EPA and/or CARB as applicable, such as documentation confirming Seller is (to the extent necessary and subject to Buyer’s obligations under Section 5 of the Special Provisions in this TC) registered under the California LCFS Regulations as a regulated party under the LCFS.
- E. **Records.** Each Party shall maintain all records in its possession relevant to the purchase of RNG hereunder, including, as applicable, all records relevant to the production, purchase and sale, transportation, and delivery of RNG purchased hereunder and for end-use, including end-use as Transportation Fuel, and Seller shall maintain information as it applies to the creation and sale of RINs and/or Q-RINs in accordance with the requirements of RFS2. Seller shall maintain records related to RNG production process, feedstocks used, Project commissioning and registration, treatment of RNG to pipeline quality, RNG deliveries to the Delivery Point. Buyer shall maintain records related to RNG deliveries from the Delivery Point along the pathway, including use as Transportation Fuel and certifications, and the monetization of RINs and/or QRINs and LCFS Credits associated to RNG deliveries under this TC. As may be requested from time to time by Seller, Buyer will provide to Seller access and rights to audit (i) Buyer’s books and records to verify the accuracy of any accounting and reconciliation of the Contract Price and the performance of Buyer’s obligations under this TC, and (ii) the records related to end-use consumption at End-Use

Location(s) associated with RNG deliveries under this TC upon Seller's commercially reasonable request. For the avoidance of doubt, Buyer shall apply reasonable commercial efforts to provide Seller with any records that were not originated or created by Buyer or that may require Buyer to request such records from another third-party.

- F. **Additional Acknowledgements.** Each Party will provide the other Party with such cooperation, additional documentation, certifications or other information as may be reasonably necessary to carry out the purposes of this TC. Buyer and Seller each acknowledge and agree that any and all obligations set forth in this TC of either Buyer or Seller, including, but not limited to, the obligation to provide information, data, documentation or other cooperation to the other Party shall also be applicable with respect to an agent or subcontractor of the other Party in the event such Party retains another party to perform any obligations under this TC. Such Party shall ultimately be responsible for its agent's or subcontractor's actions or inactions. Notwithstanding anything in this TC to the contrary, Seller acknowledges and understands that Buyer takes no responsibility for any action or inaction of Seller. Buyer acknowledges and understands that Seller takes no responsibility for any action or inaction of Buyer. As applies to end-use as Transportation Fuel, the Parties understand and agree that Buyer shall be solely responsible for the separation of or for causing the separation of K1 RINs into K2 (separated) RINs and generation of LCFS Credits and Seller is responsible for the generation of K1 RINs and transfer of K1 RINs to Buyer, including, but not limited to, all compliance responsibilities with respect thereto. Seller understands and agrees that Buyer will have firm claim and responsibility for all K1 RINs and verified LCFS Credits associated with RNG sold and purchased under this TC and agrees to not make any claims related to such RNG inconsistent with the creation and use of such Q-RINs and verified LCFS Credits.
- G. **Other Low Carbon Credits.** In the event that RNG sold and purchased hereunder are delivered to a state or jurisdiction other than California, and such state or jurisdiction has in force any program allowing the generation of carbon credits from the production and use of low carbon fuels, any credits generated under such program (or the value realized on the sale of such credits) from the RNG sold and purchased hereunder shall be allocated to Buyer and Seller according to the same terms and conditions as the LCFS Credits are allocated.

#### 4. Registration and Generation of RINs; Marketing.

##### A. Registration under RFS2.

- i. Biogas Producer Registration. Buyer shall, upon request by Seller, provide Seller with such reasonable cooperation, additional documentation or other information as may be, in order for Seller to (i) register as a Biogas Producer under RFS2 and (ii) register each Biogas Production Facility under RFS2, provided that Seller acknowledges and understands that Buyer takes no responsibility for Seller and each Production Facility's registration hereunder;
- ii. RNG Producer Registration. Buyer shall, upon request by Seller, provide Seller with such reasonable cooperation, additional documentation or other information as may be, in order for Seller to, (i) register as an RNG Producer under RFS2 and (ii) register the Facility as an RNG production facility under RFS2, provided that Seller acknowledges and understands that Buyer takes no responsibility for Seller and each Production Facility's registration hereunder.
- iii. Provisional Registration. To the extent that the registration status of a Biogas Producer, Biogas Production Facility, RNG Producer or the Facility is deemed "provisional" by EPA, any K1 RINs generated while Biogas Producer or RNG Producer status is deemed "provisional" will be held by Buyer and will not be transferred for dispensing until the applicable registration is no longer provisional or it is determined by Buyer in its reasonable discretion that the nonprovisional registration will be issued without restrictions that would render the RNG Disqualified RNG.

##### B. Biogas Tokens; RIN Generation; Dispensing and RIN Sales.

- i. Biogas Tokens. Subject to registration of Seller as a Biogas Producer under RFS2, Seller shall (i) report Biogas batch production in EMTS, (ii) generate Biogas Tokens corresponding to Biogas production, and (iii) transfer (if necessary) the Biogas Tokens to the applicable account for K1 RIN generation. The foregoing includes, without limitation, preparation of any product transfer documents or other documentation required in connection with the applicable action.
- ii. K1 RINs. Subject to registration of Seller as an RNG producer under RFS2, Seller shall generate K1 RINs from Biogas Tokens transferred to Seller and transfer such K1 RINs to Buyer with respect to RNG delivered to Buyer during the applicable period. The foregoing includes, without limitation, preparation of any product transfer documents or other documentation required in connection with the applicable action.
- iii. Dispensing. Buyer will arrange for the RNG to be converted into and used as Transportation Fuel and transfer the K1 RINs to the applicable RIN separator, receive the K2 RINs associated with such RNG from the RIN separator and market and use commercially reasonable efforts to sell such K2 RINs.
- iv. Marketing. Buyer is the exclusive marketer of any RINs and Alternative Products generated from RNG purchased and sold hereunder.

- v. **Annual Attestation/Audit.** Buyer shall, upon request by Seller, provide Seller with such reasonable cooperation, additional documentation or other information as may be, in order for Seller to cause any required annual attestation engagement or audit under an applicable program to be completed as required under an Applicable Program.
- C. **QAP.** Each of Buyer and Seller agree that Biogas Tokens and K1 RINs generated in connection or with respect to RNG purchased and sold hereunder will be reviewed pursuant to an EPA-approved Quality Assurance Program (QAP) protocol absent mutual written agreement to the contrary. Seller shall (i) enter into a contract for QAP services with a registered QAP provider in accordance with RFS2 and (ii) authorize the contracted QAP provider to communicate with Buyer directly with respect to any review, report or other services provided by such QAP provider.
- D. **Maintenance of Eligibility for Use as Transportation Fuel.** Seller is responsible for compliance with any applicable requirements of the Applicable Programs pertaining to the RNG prior to and at the Delivery Point. Buyer is responsible for compliance with any applicable requirements of the Applicable Programs following acceptance of the RNG at the Delivery Point.
- E. **[Reserved].**
- F. **Seller's Warranty.** For purposes of this TC, Seller represents and warrants the following in addition to the representations and warranties set forth in \_ of the Base Contract: "Seller represents and warrants that all Environmental Attributes associated with RNG delivered to Buyer hereunder (i) are unencumbered and held by Seller with good and marketable title upon transfer to Buyer, (ii) have not been altered in any respect or sold to any Party prior to delivery to Buyer and (iii) are attributable to gas produced from anaerobic digestion."
- G. **Seller Covenants.**
  - i. Neither Seller nor any of its Affiliates shall, directly or indirectly, take any action or omit to take any action that, in either case, would or is likely to adversely impact the registration, verification, certification, quality assurance or continued eligibility of the RNG under the Applicable Program(s).
  - ii. Seller shall not, and shall not enter into any agreement that would, directly or indirectly, (i) claim, use, transfer or otherwise encumber any Environmental Attributes or (ii) generate, market or sell any environmental claim, benefit or credit arising from or associated with the RNG without Buyer's prior written consent, which shall not be unreasonably withheld, delayed or conditioned.
  - iii. Seller agrees to execute any documentation necessary to allow Buyer to act as Seller's agent with respect to any tracking or transaction account established with respect to Gas or RINs.
- H. **[Reserved].**
- H. **RIN Market and Trades.** For the avoidance of doubt, Seller acknowledges and agrees that (i) the market for RINs may lack liquidity, (ii) Buyer shall at all times retain control over the evaluation of potential sales of RINs and the ultimate sale of RINs into the market, and (iii) Seller shall have no right to participate in or direct the sales of RINs. EXCEPT AS EXPRESSLY SET FORTH IN THIS TC, BUYER DOES NOT MAKE, AND EXPRESSLY DISCLAIMS, ALL WARRANTIES AND REPRESENTATIONS WITH RESPECT TO THE MARKETING OF RINS OR Q-RINS.

## 5. LCFS Credits

- A. **LCFS Compliance.** The Parties understand and agree that Buyer shall be responsible for registering with CARB and complying with the relevant regulatory provisions of the LCFS solely with respect to the generation of LCFS Credits. Seller be responsible with respect to all other compliance requirements with the relevant regulatory provisions of the LCFS, including, but not limited to, responsibilities for quarterly progress reporting and quarterly and annual compliance reporting and all other registration, reporting and documentation responsibilities as are set forth in this TC.
- B. **LCFS Credit Generation.** The Parties understand and agree that, provided that Seller provides all data required under the terms of this TC, Buyer will determine the number of LCFS Credits eligible to be generated and will generate LCFS Credits, associated with RNG delivered under this TC, in accordance with the LCFS. For avoidance of doubt, Buyer and Seller acknowledge and agree that Buyer is generating and is taking title to LCFS Credits associated with RNG deliveries under this TC and Seller has no rights to LCFS Credits nor does Seller have any rights to LCFS Credits which may be generated by End-Use Location(s) associated with the consumption of Gas not delivered under this TC.
- C. **Regulated Party Status and Product Transfer Documents.** Pursuant to the California LCFS Regulations, Seller shall transfer its LCFS regulated party status to Buyer with respect to all Environmental Attributes sold by Seller to Buyer hereunder. As required under the California LCFS Regulations, Seller shall, on a quarterly basis, provide Buyer or its designee with a Product Transfer Document.
- D. **[Reserved].**

E. **LCFS Market and Trades.** For the avoidance of doubt, Seller acknowledges and agrees that (i) the market for LCFS Credits may lack liquidity, (ii) Buyer shall at all times retain control over the evaluation of potential sales of LCFS Credits and the ultimate sale of LCFS Credits into the market, and (iii) Seller shall have no right to participate in or direct the sales of LCFS Credits. EXCEPT AS EXPRESSLY SET FORTH IN THIS TC, BUYER DOES NOT MAKE, AND EXPRESSLY DISCLAIMS, ALL WARRANTIES AND REPRESENTATIONS WITH RESPECT TO THE CREATION AND MARKETING OF LCFS CREDITS.

**6. Statements; Payments.** Notwithstanding Section 7 of the Base Contract, for each Month during the Delivery Period Buyer shall deliver a statement to Seller within thirty (30) days after the end of the immediately following Month that details the following:

- i. the quantity of RNG sold hereunder during such Month and Buyer's calculation of the RNG Contract Price for such quantity, including an itemized list of all expenses deducted in the calculation thereof pursuant to this TC;
- ii. the quantity of RINs generated from such RNG, the quantity of RINs yet to be generated from such RNG, and Buyer's estimated calculation of the RIN Revenue, including an itemized list of all expenses deducted in the calculation thereof pursuant to this TC;
- iii. the quantity of LCFS Credits generated from such RNG (or associated Environmental Attributes), the quantity of LCFS Credits yet to be generated from such RNG (or associated Environmental Attributes), and Buyer's estimated calculation of the LCFS Share, including an itemized list of all expenses deducted in the calculation thereof pursuant to this TC; and
- iv. the quantities of RINs and LCFS Credits generated from RNG (or associated Environmental Attributes) sold hereunder in each prior Month during the Delivery Period and the quantities of such RINs and LCFS Credits that Buyer has not yet sold.

### 7. Breach.

A. In the event that, over any one hundred and twenty (120) day period, a Party breaches its obligation to deliver or receive, as applicable, RNG or other obligations that results in an inability or failure by Seller to generate K1 RINs and/or Buyer to generate LCFS Credits from delivered and received RNG, the RINs and LCFS Credits that would have been generated by Buyer shall be accounted for in the calculation of the Contract Price for purposes of Section 3.2 of the Base Contract with the amount due to the non-breaching party in connection with such RINs and LCFS Credits calculated as follows:

- i. For a breach by Buyer, an amount equal to the positive difference, if any, between (1) the sum of the RIN Share (with the RIN Value equal to the RIN Index Price multiplied by the Net Quantity) and the LCFS Credit Share (with the LCFS Credit Value equal to the LCFS Index Price multiplied by the Net Quantity), and (2) the net proceeds received by Seller from the sale of any RINs and LCFS Credits generated, if any, outside this TC from the RNG associated with Buyer's breach, less the additional reasonable costs Seller incurs in connection with generating and selling such RINs and LCFS Credits; and
- ii. For a breach by Seller, an amount equal to the sum of (1) RIN Value multiplied by the difference between 100% and the percentage of the RIN Value set forth in the Section titled Contract Price in this TC that Buyer would have been obligated to pay Seller (with the RIN Value equal to the RIN Index Price multiplied by the Net Quantity), and (2) the LCFS Credit Value multiplied by the difference between 100% and the percentage of the LCFS Credit Value set forth in the Section titled Contract Price in this TC that Buyer would have been obligated to pay Seller (with the LCFS Credit Value equal to the LCFS Index Price multiplied by the Net Quantity), where (a) "**Net Quantity**" means the number of RINs or LCFS Credits, as applicable, that would have been generated from the Biogas which either was not delivered or was not received pursuant to a breach, less the portion of such RINs or LCFS Credits associated with Buyer's obligation to compensate End-Use Location(s) in connection with the generation of such RINs or LCFS Credits, (b) "**RIN Index Price**" means the average D3 Q-RIN price for the applicable RIN year published by the RIN Index for all posting days of the Month in which RINs were not generated due to the breach, and (c) "**LCFS Index Price**" means the average LCFS Credit price published by the LCFS Index for all posting Days of the quarter in which LCFS Credits were not generated due to the breach.

B. Any amount owed under this Section 7 shall be deducted from the breaching Party's RIN Share and LCFS Credit Share. In the event that the non-breaching Party elects to terminate this TC pursuant to Section 7(E) below, then the breaching Party shall pay the non-breaching Party the remaining amount owed under this Section 7 within thirty (30) days of termination.

C. If a Party cannot cure a breach under this Section 7 within the cure period provided under Section 10.2 of the Base Contract, the non-breaching Party may terminate this TC immediately. For avoidance of doubt, if the Parties have elected to apply Early Termination Damages under the Base Contract, no early termination calculation would take place for a termination under this Section 7.

### 8. Term; Termination

- A. **Term.** This TC will become effective on the date upon which it is executed by each Party where indicated below and will terminate or expire concurrently with the Delivery Period.
- B. **Termination of this TC.** In addition to termination under the Base Contract, this TC may be terminated in its entirety under the following circumstances:

- i. **Regulatory Event.** If the implementation of new, or changes to existing, Laws or other requirements or changes in administration or interpretation of Laws (“**Regulatory Event**”) occurs and the affected party (“**Affected Party**”) is unable, after using commercially reasonable efforts, to avoid nonperformance or negative material economic impacts, the Affected Party shall be entitled to terminate this TC, subject to the following conditions:
- (a) The Affected Party must give the non-affected party (“**Non-Affected Party**”) prior written notice of its intent to terminate this TC, and shall specify the Early Termination Date, which shall be not more than thirty (30) Business Days after the date of the notice to terminate. On the Early Termination Date, the Affected Party shall determine the amounts owed (whether or not then due) by each Party with respect to all Biogas delivered and received between the Parties under this TC on and before the Early Termination Date (including, but not limited to, an estimate of the Environmental Attribute Contract Price for such RNG) and all other applicable charges relating to such deliveries and receipts, for which payment has not yet been made by the Party that owes such payment under this TC.
  - (b) Nothing herein shall prevent the Non-Affected Party from disputing whether the Affected Party has the right to terminate this TC.
  - (c) For avoidance of doubt, no early termination damage calculation would take place for a termination under this Section 8(B). “**Regulatory Events**” shall not include (1) the imposition of new Taxes, (2) any requirement to procure a new permit, license or other governmental authorizations (unless a Party is ineligible and cannot procure the same within a reasonable period of time using best efforts), (3) the imposition of regulatory requirements that increase the costs of one or both Parties’ performance of their obligations under this TC, (4) any EPA rulemaking relating to the setting of renewable fuel volume obligations or standards under the RFS2, including by way of a reset of renewable fuel volume obligations by EPA, (5) any delay of an EPA rulemaking relating to such setting of renewable fuel volume obligations or standards, (6) any revision to the pricing formula for cellulosic waiver credits under the RFS2, (7) any change in the point of obligation under the RFS2 program, (8) any EPA rulemaking relating to the rules for RIN carry forwards, and (9) any change in compliance procedures in respect of the generation, trading or retirement of RINs. Notwithstanding the foregoing, Regulatory Events shall include imposition of a requirement on Seller to deliver RNG to Buyer other than via displacement/exchange, “book and claim” or “in-kind gas swap”. “**Law**” means any law, rule, regulation, ordinance, statute, judicial decision, administrative order, Transporter business practices or protocol, Transporter tariff, or rule of any commission or agency with jurisdiction in the state in which the Project or Seller is located.).
- ii. **Force Majeure.** See Section 11 of the Base Contract. For avoidance of doubt, no early termination damage calculation would take place for a termination under this Section 8(C).
- C. **Early Termination Payments.** Early termination of this TC will not affect either Party’s obligations accruing, due and owing hereunder on or prior to the effective date of the termination. Amount(s) owed as a result of early termination, as detailed this Section 8, shall be due for such amount(s) within fifteen (15) days upon receipt by the owing Party of an invoice for such amount due to the non-owing Party. The Parties acknowledge and agree that any termination payment under this TC constitutes a reasonable approximation of harm or loss and is not a penalty or punitive in any respect.
- 9. Limitation of Liability.** Notwithstanding anything to the contrary contained in this LC:
- i. Neither Party shall be liable to the other Party or its directors, officers, employees or agents for any indirect, special, punitive or consequential damages, losses, expenses, or liabilities howsoever caused (including, without limitation, loss of profits).
  - ii. Buyer’s liability under this TC shall not exceed the value of Buyer’s RIN Share plus Buyer’s LCFS Credit Share, as actually retained by Buyer pursuant to this TC.
  - iii. Seller’s liability under this TC shall not exceed the value of the RIN Share plus LCFS Credit Share actually received by Seller pursuant to this TC.
- 10. Additional Indemnifications.**
- A. Seller. Notwithstanding any other provisions in the Base Contract, Seller agrees to defend, indemnify and hold harmless Buyer and all its affiliates, and all of their respective officers, directors, shareholders, associates, employees, agents, representatives, successors and assigns from and against all losses, penalties, fines, charges or claims, arising out of any third party claim (collectively, “**Claims**”) arising from or out of (i) Seller-provided falsehoods, misrepresentations, material inaccuracies or misleading statements in any documentation (including, but not limited to, in claims of title, registrations, attestations and other representations and warranties concerning the RNG); (ii) personal injury (including death) or property damage from said RNG which attach before title passes to Buyer, (iii) other claims, liens, and encumbrances related to said RNG which attach before title passes to Buyer, (iv) Seller’s gross negligence or willful misconduct; (v) violation of any applicable law/regulation/ordinance, (including but not limited to, failure to comply with any applicable obligation or requirement of the EPA or CARB); or (vi) Seller’s breach of this Transaction Confirmation.

B. Buyer. Notwithstanding any other provisions in the Base Contract, Buyer agrees to defend, indemnify and hold harmless Seller and all its affiliates, and all of their respective officers, directors, associates, employees, agents, representatives, successors and assigns from and against all third party Claims based on or arising from or out of (i) Buyer-provided falsehoods, misrepresentations, material inaccuracies or misleading statements in any documentation related to this Transaction Confirmation; (ii) personal injury (including death) or property damage from said Biogas that occurred after title passes to Buyer, (iii) other claims, liens, and encumbrances related to said Biogas that attach after title passes to Buyer, (iv) Buyer’s gross negligence or willful misconduct; (v) violation of any applicable law/regulation/ordinance (including but not limited to, failure to comply with any applicable obligation or requirement of the EPA or CARB); or (vi) Buyer’s breach of this Transaction Confirmation.

**11. Confidentiality.**

Notwithstanding the parties election on the Base Contract not to make Section 15.10 of the Base Contract applicable, the parties acknowledge and agree that neither party shall disclose directly or indirectly without the prior written consent of the other party (i) the Contract Price of a transaction, nor (ii) any confidential information of such party disclosed pursuant to an audit, request for Documentation, or other arrangement hereunder (other than to the employees, lenders, counsel, accountants and other agents of the party), except in order to comply with any applicable law, order, regulation, exchange rule, or applicable program.

Please confirm the foregoing correctly sets forth the terms of our agreement with respect to this TC by signing in the space provided below and returning a copy of the executed confirmation by email to: david.broustis@kingcounty.gov; lhonaker@kingcounty.gov; jonathan.burnston@karbone.com; accounting@karbone.com; and legal@karbone.com

*[Signature Box Follows]*

**IN WITNESS WHEREOF**, the parties hereto have caused this Transaction Confirmation to be executed as of the Effective Date.

<p>Seller:  <b>KING COUNTY, THROUGH ITS DEPARTMENT OF NATURAL RESOURCES AND PARKS -- SOLID WASTE DIVISION</b></p> <p>By: _____</p> <p>Name: Rebecca Singer                  Title: Director, Solid Waste Division</p>	<p>Buyer:  <b>KARBONE ENERGY, LLC</b></p> <p>By: _____</p> <p>Name: Jonathan Burnston                  Title: Managing Director</p>
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