

The following Special Provisions are included to provide general information on DWR's NAESB contracts to interested parties. They represent the terms generally acceptable to DWR and similar to those in past agreements; however, in the future particular circumstances may necessitate diversion from these terms and negotiation of new terms.

Standard California Department of Water Resources

Terms and Conditions for NAESB Agreements

1. Form for Transactions: North American Energy Standards Board, Inc. Standard Base Contract for Sale and Purchase of Natural Gas, NAESB Standard 6.3.1 (April 19, 2002)

2. General Terms and Conditions Elections:

- Section 14.5: Choice of Law is California

3. Additional Special Terms and Conditions Apply: Additional specific terms and conditions are as set forth in the following pages, which shall be incorporated by reference in any agreement that is executed.

SPECIAL PROVISIONS

to the BASE CONTRACT FOR

SALE AND PURCHASE OF NATURAL GAS

(NAESB Standard 6.3.1, Dated April 19, 2002)

between

CALIFORNIA DEPARTMENT OF WATER RESOURCES

P. O. Box 219001

3310 El Camino Avenue

Sacramento, CA 95821

(“DWR”)

and

[Counterparty Name and Address]

(“Counterparty”)

Dated:

The parties agree to amend the General Terms and Conditions of the Base Contract as follows:

1. Section 1.2, Oral Transaction Procedures, shall be amended to read as follows:

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. It is understood by the parties that each of the Investor Owned Utilities (“IOUs”) listed in Exhibit “C” hereto is a limited agent of DWR pursuant to California Public Utilities Commission Decisions D.04-10-020 and D.03-12-003. The Confirming Party shall provide separate Transaction Confirmations to DWR (to be sent to the address provided in Exhibit “A” hereto) for each IOU that acts as DWR’s limited agent. The Transaction Confirmation will include details of each Transaction separated for each IOU. For each such Transaction Confirmation provided to DWR, the Confirming Party must send directly to each IOU (at the address provided in Exhibit “B” hereto) a duplicate copy of the portion of the Transaction Confirmation relating to the Transaction for that particular IOU acting as limited agent. The Confirming Party shall limit the detail provided to each IOU to the Transaction by that IOU and no others.

2. Section 1.4, Electronic Recording, shall be amended to read as follows:

1.4. The parties agree that each party may electronically record all telephone conversations with respect to this Contract between their respective employees or agents, 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. However, nothing herein shall be construed as a waiver of any objection to the admissibility of such evidence.

3. The following shall be added immediately following Section 2.29 Definitions:

- 2.30. “Authorizing Law” means AB 1X (Chapter 4 of the Statutes of 2001, First Extraordinary Session), as amended by AB 1X (Chapter 9 of the Statutes of 2001, First Extraordinary Session) codified as Section 80000 *et seq.* of the California Water Code.
- 2.31. “Fund” means the Department of Water Resources Electric Power Fund established by Section 80200 of the Water Code of the State of California (the “Water Code”).
- 2.32. “Transaction” shall mean a purchase or sale transaction for a particular delivery period formed pursuant to this Base Contract and memorialized in a Transaction Confirmation.
- 2.33. “Bankrupt” shall mean that a party (i) makes an assignment or any general arrangement for the benefit of creditors; (ii) files a petition or otherwise commences, authorizes, or acquiesces in the commencement of a proceeding or case under any bankruptcy or similar law for the protection of creditors or has such petition filed or proceeding commenced against it; (iii) otherwise becomes bankrupt or insolvent (however evidenced); (iv) is unable to pay its debts as they fall due; or (v) has a receiver, provisional liquidator, conservator, custodian, trustee or other similar official appointed with respect to it or substantially all of its assets.
4. Section 7.1 Billing, Payment and Audit shall be amended to read as follows:
- 7.1 Seller shall invoice Buyer for Gas delivered and received in the preceding Month and for any other applicable charges, and provide 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. Seller shall provide separate invoices to DWR (to be sent to the address provided in Exhibit “A” hereto) for each Investor Owned Utility (“IOU”) that acts as DWR’s limited agent. The invoice will include details of each Transaction separated for each IOU. For each such invoice provided to DWR, Seller must send directly to each IOU (at the address provided in Exhibit “B” hereto) a duplicate copy of the portion of the invoice relating to the purchases and sales for that particular IOU acting as limited agent. Seller shall limit the detail provided to each IOU to the Transactions by that IOU and no others. Seller’s invoices must indicate the name of the IOU and, for each Gas purchase, Seller’s invoice must include delivery point or location where the Gas was delivered. Seller further agrees to cooperate in responding to DWR’s or its agents’ reasonable requests for any additional information that would assist DWR and its agents in verifying amounts to be paid. Seller agrees that DWR, the Department of General Services, the Bureau of State Audits, or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Base Contract. Seller

agrees to maintain such records for possible audit for a minimum of two (2) years after final payment, unless a longer period of records retention is stipulated. Seller agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, Seller agrees to include any similar right of the State to audit records and interview staff in any material contract with contractors or suppliers related to performance of this Base Contract.

5. Section 8.3 shall be amended to read as follows:

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 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 or property damage from said Gas or other charges thereon, which attach after title passes to Buyer. However, DWR's obligation to indemnify Counterparty pursuant to the provisions of this Section 8.3 shall apply only to the extent expressly permitted by law.

6. Section 9.2 shall be amended to read as follows:

9.2 All Notices required hereunder may be sent by facsimile or mutually acceptable electronic means, a nationally recognized overnight courier service, first class mail or hand delivered, except for Notices relating to Events of Default, as provided for in Sections 10.2 and 10.3, which shall be sent by a nationally recognized overnight courier service.

7. Section 10.2 shall be amended to read as follows:

10.2 In the event (each an "Event of Default") either party (the "Defaulting Party") or its guarantor shall: (i) become Bankrupt, (ii) fail to perform any obligation to the other party with respect to any Credit Support Obligations relating to the Contract; (iii) 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; or (iv) not have paid any amount due the other party hereunder on or before the fifth Business Day following written Notice that such payment is due; 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.

8. Section 10.3.1 shall be amended to read as follows:

10.3.1. (a) Upon termination of this Base Contract and the Transactions hereunder as the result of an Event of Default, the Non-Defaulting Party shall be entitled to a payment (the

“Termination Payment”) which shall be calculated as of the Early Termination Date in accordance with (b) below. As soon as practicable after the Early Termination Date, the Non-Defaulting Party shall give Notice to the Defaulting Party of the amount of the Termination Payment, if any, due to the Non-Defaulting Party. The Notice shall include a written statement explaining in reasonable detail the calculation of such amount. Termination Payment is to be made no later than thirty (30) days after receipt of written Notice of an Early Termination Date, except in the event that DWR is the Defaulting Party, in which case the Termination Payment is to be one hundred eighty (180) days after receipt of written Notice of an Early Termination Date. Interest on any unpaid portion of the Net Settlement Amount 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.

Notwithstanding Section 7.4 hereof, if the Defaulting Party disagrees with the calculation of the Termination Payment and the parties cannot otherwise resolve their differences, pending resolution of the dispute, the Defaulting Party shall pay the full amount of the Termination Payment calculated by the Non-Defaulting Party in accordance with the timetable as provided above.

(b) The Non-Defaulting Party shall calculate the Termination Payment as follows:

The Termination Payment, if any, shall be (i) in the case Buyer is the Non-Defaulting Party, the present value of the positive difference, if any, between (A) Market Value, and (B) Contract Value, or (ii) in the case Seller is the Non-Defaulting Party, the present value of the positive difference, if any, between (A) Contract Value, and (B) Market Value, in each case using the Present Value Rate as of the time of termination (to take account of the period between the time Notice of termination was effective and when such amount would have otherwise been due pursuant to the relevant Transaction). The “Present Value Rate” shall mean the sum of 0.50% plus the yield reported on page “USD” of the Bloomberg Financial Markets Services Screen (or, if not available, any other nationally recognized trading screen reporting on-line intraday trading in United States government securities) at 11:00 a.m. (New York City, New York time) for the United States government securities having a maturity that matches the average remaining term of this Base Contract, taking into account all 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 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 bona fide third party offers, all adjusted for the length of the term and the difference in transportation costs. A party shall not be required to

enter into a replacement Transaction(s) in order to determine “Market Value.” Any extensions(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.

(c) Notwithstanding the other provisions of this Base Contract, if the Non-Defaulting Party has the right to liquidate or terminate all obligations arising under the Transaction under the provisions of this Section 10 because of the circumstances listed in items (i) through (v) of Section 10.2, then this Base Contract and the Transactions hereunder shall automatically terminate, without Notice, as if the Early Termination Date was the day immediately preceding the events listed in Section 10.2.

9. Section 10.4 shall be deleted.

10. Section 10.5, Forward Contract, shall be amended to read as follows:

The parties agree that the Transactions hereunder constitute a “forward contract” within the meaning of the United States Bankruptcy Code and that (i) Seller is a “forward contract merchant” within the meaning of the United States Bankruptcy Code and that (ii) DWR is either a “forward contract merchant” or a “financial participant” within the meaning of the United States Bankruptcy Code.

11. The following shall be added immediately following Section 10.7:

10.8. DWR's obligation to make payments hereunder shall be limited solely to the Fund. Any liability of DWR arising in connection with this Base Contract or any claim based thereon or with respect thereto, including, but not limited to, any payment pursuant to Section 3.2 hereof arising as the result of any breach or event of default under this Base Contract, and any other payment obligation or liability of or judgment against DWR hereunder, shall be satisfied solely from the Fund. NEITHER THE FULL FAITH AND CREDIT NOR THE TAXING POWER OF THE STATE OF CALIFORNIA ARE OR MAY BE PLEDGED FOR ANY PAYMENT UNDER THIS BASE CONTRACT. Revenues and assets of the State Water Resources Development System shall not be liable for or available to make any payments or satisfy any obligation arising under this Base Contract.

12. Section 14.1 is amended to read as follows:

14.1 This Contract shall be binding upon and inure to the benefit of the successors, assigns, personal representatives, and heirs of the respective parties hereto, and the covenants, conditions, rights and obligations of this Contract shall run for the full term of this Contract. No assignment of this Contract, in whole or in part, will be made without the prior written consent of the non assigning party (and shall not relieve the assigning party from liability hereunder), which consent will not be unreasonably withheld or delayed and any assignment without such consent shall be void. Upon any such assignment, transfer and assumption, the assignor shall remain principally liable for and shall not be relieved of or discharged from any obligations hereunder.

13. The following shall be added immediately following Section 14.11:

14.12. It is understood by the parties that, with respect to the DWR, only the persons or such other persons as designated in writing by DWR in Exhibit B hereto shall be authorized to enter into any Transaction contemplated hereunder on behalf of DWR. The parties will deliver, upon execution of this Base Contract and any amendments thereto, evidence of such officers' capacity and authority to execute this Base Contract and any amendment, and authorizing the Party to enter into Transactions of the type contemplated by the Parties under this Base Contract, as shall be reasonably satisfactory in form and substance to the other Party. Additionally, DWR will deliver Trader authorizations for each person listed above.

14. The following shall be added immediately following Section 14.12:

14.13. It is understood by the parties that each of the IOUs listed in Exhibit "C" hereto is a limited agent of DWR and is authorized to all necessary functions on behalf of DWR pursuant to this Base Contract. The performance of such functions, and the authorization thereof, may be carried out only to the extent consistent with and permissible under California Public Utilities Commission Decisions D.04-10-020 and D.03-12-003 and any existing operating agreement(s) between DWR and an IOU.

15. The following shall be added immediately following Section 14.13:

14.14. It is understood by the parties that the California Department of Water Resources means the California Department of Water Resources, acting solely under the authority and powers created by AB 1X, codified as Sections 80000 through 80270 of the Water Code of California, as amended, and not under its powers and responsibilities with respect to the State Water Resources Development System.

16. The following **Exhibits** shall become part of the Base Contract:

Exhibit A, form of Transaction Confirmation for Immediate Delivery.

Exhibit B, DWR Contact Information and Counterparty Information.

Exhibit C, IOU Contact Information.