Form No. DMB 234A (Rev. 1/96)
AUTHORITY: Act 431 of 1984
COMPLETION: Required
PENALTY: Failure to deliver in accordance with Contract terms and conditions and this notice,may be considered in default of Contract

STATE OF MICHIGAN
DEPARTMENT OF MANAGEMENT AND BUDGET
ACQUISITION SERVICES
P.O. BOX 30026, LANSING, MI 48909
OR
530 W. ALLEGAN, LANSING, MI 48933

August 3, 2006

CHANGE NOTICE NO. 1
TO
CONTRACT NO. 071B6200114
between
THE STATE OF MICHIGAN
And

NAME & ADDRESS OF VENDOR	TELEPHONE **Charles Galvin** **586-416-1902 Ext. 24** **Fax: 586-416-1905**
Lakeshore Energy Services **15931 19 Mile Rd., Suite 150** **Clinton Twp., MI 48038**	
Email: galvin@lakeshoreenergy.com	BUYER/CA (517) 373-8530 **Rebecca Nevai**
Contract Compliance Inspector: Jackie Huhn	
NATURAL GAS SUPPLY MANAGEMENT - DMB	
CONTRACT PERIOD: From: **December 1, 2005**	To: **December 1, 2008**
TERMS **Net 45**	SHIPMENT **N/A**
F.O.B. **N/A**	SHIPPED FROM **N/A**
MINIMUM DELIVERY REQUIREMENTS	
N/A	

THIS CONTRACT IS EXTENDED TO MEMBERS OF THE STATE OF MICHIGAN ENERGY PURCHASING COOPERATIVE ONLY.

NATURE OF CHANGE (S):

EXHIBIT C – PRICING GUIDELINES AND SCOPE OF WORK

Effective June 13, 2006, Exhibit C shall be replaced with the attached document.

All other contract terms and pricing remain unchanged, and are in full effect.

AUTHORITY/REASON:

Per Lakeshore Energy Services signed letter of agreement, dated June 26, 2006, and the approval of DMB Purchasing Operations.

TOTAL ESTIMATED CONTRACT VALUE REMAINS: $1

Exhibit C Pricing Guidelines & Scope of Work – Revised 5-11-06

1.0 BACKGROUND

The State of Michigan Energy Purchasing Cooperative (Cooperative) consists of State agencies, universities, community colleges, cities, counties, and K-12 public schools. The State of Michigan operates many facilities within the State that consume natural gas as their only or primary fuel source. During the term of the gas supply contract, other State agencies and public entities have the option to join the supply Energy Purchasing Cooperative, utilizing the natural gas contracts awarded by the State of Michigan.

The State may, per Act Number 431 of the Public Acts of 1984, include cities, villages, counties, townships, school districts, intermediate school districts, non-profit hospitals, institutions of higher learning, and community or junior colleges in the Energy Purchasing Cooperative.

The Cooperative Members are projected to consume approximately 3,322,000 MMBtu annually, to be delivered to various utility service territories. There is an additional 673,000 MMBtu pending contract renewal, and Cooperative Members participating monthly consumed 1,000,000 MMBtu during the calendar year 2005.

Tier 1 Sellers are pre-qualified to potentially supply all energy requirements of the Cooperative.
Tier 2 Sellers are pre-qualified to potentially supply partial energy requirements of the Cooperative.

2.0 DEFINITIONS

For purposes of this document, the following definitions will be used:

A. Gas Options are like owning an insurance policy. Options give the owner the right but not the obligation to purchase (or to sell) a natural gas contract at a defined price for a defined date. It is similar to an insurance policy in that the owner pays a premium and the financial market provides coverage.

B. Standardized Financial Instruments are a defined block of 10,000 MMBtu (10,000 MMBtu = 1 NYMEX contract) for a specified delivery month and price as outlined in the transaction. The fee for processing said transaction should be incorporated into the cost of the transaction. Examples of such instruments are Gas Options, Cap Prices, Fixed Prices, etc. These instruments can be purchased for a period such as one month or multiple months.

C. NYMEX Settlement Price shall mean the price established by the New York Mercantile Exchange (NYMEX) at the close of the trading session for the specified month.

D. Point of Delivery shall be the following Citygates: DTE Energy (MichCon), Consumers Energy Company (CEC), SEMCO Energy Company (SEMCO), and Aquila (MGU).

E. Gas Price Index shall mean the monthly index for said month published in the *platts Gas Daily Price Guide.* For the CEC service area, the Upper Midwest, Consumers Energy city-gate is the reference price. For the MichCon service area, the Upper Midwest Mich Con city-gate is the reference price. For the SEMCO facilities not serviced by Northern Natural Gas Company and for the MGU service area, the Upper Midwest, ANR Pipeline ML7 is the reference price. For the SEMCO facilities serviced by the Northern Natural Gas Company pipeline the reference index price will be Midpoint Average, Others, Northern, demarc.

F. Market Basis shall be the difference between the NYMEX Settlement Price and the Gas Price Index for the Point of Delivery for the specified month.

G. Default Pricing Structure shall equal the Gas Price Index.

H. Cap Price is the maximum contracted price that the State of Michigan has agreed to pay for natural gas.

I. Fixed Price is the guaranteed gas price the State of Michigan has agreed to pay for a specified volume of gas to be delivered during a specified period.

J. Pricing Structures are the combination of the various Standardized Financial Structures that the State of Michigan has executed to determine the cost of natural gas for the customers participating in the gas program.

K. Contracted Basis shall be the Basis price for volumes purchased at NYMEX using a Standardized Financial Instruments. If a Contracted Basis is not executed for any Standardized Financial Instrument, the Contracted Basis will automatically equal the Market Basis.

L. Utility shall refer to the local distribution company servicing the participating facilities. For purposes of this agreement Utility shall refer to the Consumers Energy Company, DTE Energy (Mich Con Gas Company), SEMCO Energy Company (SEMCO), or Aquila (Michigan Gas Utilities).

M. Cooperative Members can participate with 100% of their gas needs dedicated to the program or some volume less than 100%. Those Cooperative Members participating less than 100% must operate as follows: (1) defined gas supply volume in advance of the first of the month, (2) notify the Gas Supplier 5 working days prior to the start of the month the quantity of gas needed for the upcoming month, or (3) daily gas supply needs in the morning prior to the date of requested gas flow.

N. Royalty-in-Kind shall refer to the State's royalty share of natural gas produced from State owned natural gas well (s) on the land leased by the State through a competitive bid process. The State has the option to take its royalty "in-kind" (product) or "in-value" (cash).

O. Seller Mark-up shall mean a fee per MMBtu paid to the Seller for each MMBtu of gas sold to the Cooperative excluding the Outside Purchase Volumes and excluding the Special Pricing Volumes.

P. Outside Purchase Volumes shall mean the quantity of natural gas acquired by the Cooperative outside said agreement but said volumes are delivered during the term of said agreement.

Q. Special Pricing Volumes shall mean those volumes designated from time to time by the Cooperative to be purchased under separate pricing arrangements as agreed to between the Seller and the Buyer. Special Pricing Volumes and the associated pricing details are specified in Transaction Confirmations.

R. Pooling Fee shall the mean a fee per MMBtu paid to the Seller for each MMBtu of gas consumed by the Cooperative within the SEMCO service area (excluding those participants serviced from the Great Lakes Gas Transmission system). The Cooperative does not have an aggregated contract arrangement with the utility company and therefore must utilize the customer pool of the Seller to meet the daily balancing requirements of SEMCO.

3.0 SELLER'S SCOPE OF WORK – TIER 1

A list of services to be completed by the Seller is identified. The services include, but are not limited to, the following:

A. The Seller shall forecast usage each month for the State of Michigan participating facilities and any public entity participating as a full requirements member. At a minimum of five (5) working days before the start of the month, Seller shall discuss and recommend nomination volumes through the State's Energy Consultant (including the Cooperative member if the Cooperative Member desires to actively participate).

B. Prepare scheduling details and file nominations for delivery of required gas commodity to the Point Delivery for all members. Submit a summary of the first of month nominations filed with the Utilities for all the Cooperative Members to the State's Energy Consultant.

C. Implement monthly or more frequently as needed monitoring procedures to eliminate shortfalls, over-deliveries, and avoid supply interruptions for all members.

D. Adhere to deadlines and other operating/procedural requirements as dictated by other companies associated with the Cooperative to avoid penalties and other unexpected costs.

E. Act as a liaison between the Cooperative members and the Utility in the event of curtailments and interruptions. Utilize alternate fuel capabilities to respond to Utility interruptions where possible. Ensure proper notice is given to participating facilities to transition from natural gas to alternate fuels.

F. Maintain a listing of participating facilities in the gas program, the energy contact person for each facility (name, phone, and fax), that provides meter read data and the status of alternate fuel,

G. The Seller shall submit to the State's Energy Consultant the following monthly reports;

(1) Within 5 days after the close of the month, a summary of the gas delivered to the various Utilities for each participant in the Cooperative shall be provided.
(2) Within 5 days after the close of the month, a summary of any daily gas purchased completed during the month shall be provided.
(3) Within 5 days after the start of a month, a summary of the initial nominations filed with the Utility for each participant in the Cooperative shall be provide.
(4) At a period no less than bimonthly the Seller shall provide market intelligence reports containing information that the Seller may have available summarizing trends in the market for the forthcoming time periods. Such reports are to assist the Cooperative to make better-informed decisions regarding acquisition of natural gas.

At the request of the Contract Administrator and/or the State's Energy Consultant, additional reporting may be required.

H. The Seller will assist the State in acquiring Standardized Financial Instruments as agreed to between the State (and/or the State's Energy Consultant) and the Seller. The State (or the State's Energy Consultant) will prepare within five (5) working days a Transaction Confirmation detailing the transaction completed and e-mail said document to the Seller. The Seller will mail two signed copies of the Transaction Confirmation to the State for further execution within 10 days of receipt of the Transaction Confirmation. The State will execute said document and return one original copy to the Seller.

I. The Seller and the Energy Consultant will catalogue all Standardized Financial Transactions. Five working days before the beginning of each month, the Seller and the Energy Consultant will confirm those transactions for the upcoming month.

J. There is no requirement as to the routes or levels of transportation service used by the Seller. However, the Seller is obligated to deliver the gas needs on a firm basis. Seller is responsible for any penalty charges incurred as a result of Seller's choice of routes of gas transportation to the Point(s) of Delivery.

K. If Seller's nominations, imbalance trading, and delivery scheduling at any time results in the Cooperative being assessed penalties, the Seller shall reimburse all such costs within 30 days of notification.

L. Initially, gas supply pricing will be based on the Seller Mark-up plus the applicable Gas Price Index. After this contract is awarded, the Cooperative plans to make advanced purchases or other forms of risk management structures from the Seller (or gas suppliers on the Cooperative's Pre-Qualified Bidder's List). Such purchases could include but are not limited to ceiling prices, price collars, cross-commodity pricing and/or purchase at a fixed price. Such purchase negotiations could be any time after this contract is awarded. The Seller awarded this agreement shall be guaranteed a minimum annual usage of 1,800,000 MMBtu.

M. If during any given month, additional gas supply is needed (the lesser of the two pricing options) or excess gas supply must be sold (the higher of the two pricing options) during the month, the price for said transactions shall be one of the following: (1) the average of the daily prices reflected in the *platts Gas Daily*, Daily Price Survey or (2) the daily cash price. If a Cooperative Member has excess supply, during a given month, the Seller shall discuss the sale of said volumes with the State's Energy Consultant. If the excess supply is associated with Outside Purchase Volumes and/or Special Pricing Volumes belonging to the Cooperative Member, said volumes may be sold to another Cooperative Member if the sale is of economic benefit to both Cooperative Members.

N. The Seller will be required to coordinate with the gas producer delivering Royalty-in-Kind to the Cooperative. A Royalty-in-Kind Pilot Project is in progress. The Contract Administrator and/or the Energy Consultant will work with the Seller to understand and develop the process and procedures. Gas volumes delivered in conjunction with the Royalty–in-Kind Pilot Project is considerate those volumes

O. The Seller may be requested to attend meetings with the Cooperative and discuss such topics as gas purchasing strategies, gas pricing options, etc. The Cooperative meets on a quarterly basis throughout the State.

P. The Seller may contact the Cooperative Members directly to discuss daily operating issues, meter read information, and other dealings with the nominating and scheduling of the gas supply for the participant. Any such communications shall be summarized in writing and copied to the State's Energy Consultant. The Seller shall not directly contact a participant for other issues without first notifying the State Contract Administrator and/or the State's Energy Consultant.

4.0. SELLER'S SCOPE OF WORK - TIER 2

A. Prepare scheduling details and file nominations for delivery of required gas commodity to the Point Delivery as detailed in the fully executed Transaction Confirmation.

B. There is no requirement as to the routes or levels of transportation service used by the Seller. However, the Seller is obligated to deliver the gas needs on a firm basis. Seller is responsible for any penalty charges incurred as a result of Seller's choice of routes of gas transportation to the Point(s) of Delivery.

C. If Seller's nominations and delivery scheduling at any time results in the Cooperative being assessed penalties, the Seller shall reimburse all such costs within 30 days of notification.

5.0 SELLER'S REIMBURSEMENT – TIER 1

A. The State shall pay the Seller for gas supply and services each month in accordance with the following:

(Gas supply delivered to each Utility (usage in the case of SEMCO participants) less Outside Purchase Volumes less Special Pricing Volumes) multiplied by (Gas Price Index plus Seller Mark-up); plus if applicable,

Special Pricing Volumes multiplied by associated price designated in the Transaction Confirmation; plus if applicable,

Interstate demand charges (for those facilities within the SEMCO service territory provided both the Seller and Buyer agree to said charges); plus if applicable

Gas consumption for the SEMCO facilities (excluding those serviced by the Great Lakes Gas Transmission) multiplied by Pooling Fee; minus if applicable

Any penalty charges such as daily balancing charges, cash out dollars, etc invoiced by the Utility to the Cooperative.

6.0. SELLER'S REIMBURSEMENT – TIER 2

A. The State shall pay the Seller for gas supply and services each month in accordance with the following:

Gas supply volumes defined in the Transaction Confirmation multiplied by associated price designated in the Transaction Confirmation.

7.0 BILLING AND PAYMENT

A. Billing and invoicing shall be based upon actual deliveries at the Utility citygate (SEMCO service area shall be based on usage). Seller's invoices will not be sent until after the conclusion of the calendar month. Seller invoices shall include the time period covered, volumes and prices, and supporting documentation from the Utility that said deliveries were made. A copy of all invoices and supporting documentation shall be provided to the Energy Consultant also.

B. If any under-delivery, over-delivery, or other similar charges interconnected with Utility are incurred, Seller shall pay all such charges or penalties, which are solely Seller's liability;

C. Payment is due to Seller not later than 45 days from the date a correct invoice is received by the State. If the invoice is deemed incorrect by the State, the State will send an Invoice Dispute Notification to the Seller, to which the Seller should respond in a timely manner. The State will pay the non-disputed amount. The State will endeavor to process invoices and dispatch payments in a timely manner. If the State payments to the Seller are received later than 45 days, Seller's only resort shall be interest charges in accordance with the Public Act 279 of 1984 (Prompt Payment Act). Interest charges are calculated as 0.75% (¾ of one percent) of the non-disputed payment due per month or portion of a month that the payment remained past due.

D. If payment is to be made to a party other than the Seller, the Seller must furnish a statement to this effect to the State's accounts payable contact person.

Form No. DMB 234 (Rev. 1/96)
AUTHORITY: Act 431 of 1984
COMPLETION: Required
PENALTY: Contract will not be executed unless form is filed

STATE OF MICHIGAN
DEPARTMENT OF MANAGEMENT AND BUDGET
ACQUISITION SERVICES
P.O. BOX 30026, LANSING, MI 48909
OR
530 W. ALLEGAN, LANSING, MI 48933

January 5, 2006

NOTICE
OF
CONTRACT NO. 071B6200114
between
THE STATE OF MICHIGAN
And

NAME & ADDRESS OF VENDOR	TELEPHONE **Charles Galvin** **586-416-1902 Ext. 24** **Fax: 586-416-1905**
Lakeshore Energy Services **15931 19 Mile Rd., Suite 150** **Clinton Twp., MI 48038**	
Email: galvin@lakeshoreenergy.com	BUYER/CA (517) 373-8530 **Rebecca Nevai**
Contract Compliance Inspector: Jackie Huhn **NATURAL GAS SUPPLY MANAGEMENT - DMB**	
CONTRACT PERIOD: From: **December 1, 2005**	To: **December 1, 2008**
TERMS **Net 45**	SHIPMENT **N/A**
F.O.B. **N/A**	SHIPPED FROM **N/A**
MINIMUM DELIVERY REQUIREMENTS **N/A**	

THIS CONTRACT IS EXTENDED TO MEMBERS OF THE STATE OF MICHIGAN ENERGY PURCHASING COOPERATIVE ONLY.

Estimated Contract Value: $1.00

Form No. DMB 234 (Rev. 1/96)
AUTHORITY: Act 431 of 1984
COMPLETION: Required
PENALTY: Contract will not be executed unless form is filed

STATE OF MICHIGAN
DEPARTMENT OF MANAGEMENT AND BUDGET
ACQUISITION SERVICES
P.O. BOX 30026, LANSING, MI 48909
OR
530 W. ALLEGAN, LANSING, MI 48933

CONTRACT NO. 071B6200114
between
THE STATE OF MICHIGAN
And

NAME & ADDRESS OF VENDOR	TELEPHONE **Charles Galvin** **586-416-1902 Ext. 24** **Fax: 586-416-1905**
Lakeshore Energy Services **15931 19 Mile Rd., Suite 150** **Clinton Twp., MI 48038**	
Email: galvin@lakeshoreenergy.com	BUYER/CA (517) 373-8530 **Rebecca Nevai**

Contract Compliance Inspector: Jackie Huhn

NATURAL GAS SUPPLY MANAGEMENT - DMB

CONTRACT PERIOD:	From: **December 1, 2005**	To: **December 1, 2008**
TERMS **Net 45**	SHIPMENT **N/A**	
F.O.B. **N/A**	SHIPPED FROM **N/A**	
MINIMUM DELIVERY REQUIREMENTS **N/A**		

MISCELLANEOUS INFORMATION:
THIS CONTRACT IS EXTENDED TO MEMBERS OF THE STATE OF MICHIGAN ENERGY PURCHASING COOPERATIVE ONLY.

Estimated Contract Value: $1.00

THIS IS NOT AN ORDER: This Contract Agreement is awarded on the basis of our Solicitation to Pre-Qualify Natural Gas Vendors. A transaction confirmation requesting natural gas will be issued directly by the Department of Acquisition Services through the issuance of a NAESB Transaction Confirmation as seen in Exhibit B.

FOR THE VENDOR:	**FOR THE STATE:**
Lakeshore Energy Services Firm Name	Signature
Authorized Agent Signature	**Anthony DesChenes, Director** Name/Title
Authorized Agent (Print or Type)	**Commodities Division, Acquisition Services** Division
Date	Date

Base Contract for Sale and Purchase of Natural Gas

This Base Contract is entered into as of the following date: December 1, 2005. The parties to this Base Contract are the following:

Lakeshore Energy Services	and State of Michigan, Acquisition Services
Duns Number:	Duns Number: N/A
Contract Number: 071B6200114	Contract Number:
U.S. Federal Tax ID Number:	U.S. Federal Tax ID Number: N/A
Notices:	
15931 19 Mile Rd., Suite 150 Clinton Twp., MI 48038	State of Michigan, DMB Acquisition Services 530 West Allegan Street Stevens T Mason Building, 2nd Floor P. O. Box 30026 Lansing, Michigan 48909
Attn: Charles Galvin	Attn: Rebecca Nevai, Buyer Commodities Division
Phone: 586-416-1902 Ext. 24 Fax: 586-416-1905	Phone: 517-373-8530 Fax: 517-335-0046
	E-mail: nevair@michigan.gov
Confirmations:	
Same	Same
Attn:	Attn:
Phone: Fax:	Phone: Fax:
Invoices and Payments:	
	State of Michigan, DMB Financial Services Lewis Cass Building 320 S Walnut Street P. O. Box 30026 Lansing, Michigan 48909
Attn:	Attn: Ron Foss, Accountant
Phone: Fax:	Phone: 517-335-7015 Fax: 517-373-1071 E-mail: FossR@michigan.gov
Wire Transfer or ACH Numbers (if applicable):	
BANK:	BANK: NA
ABA:	ABA: NA
ACCT:	ACCT: N/A
Other Details:	Other Details: N/A

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 only one box from each section:

Section 1.2 Transaction Procedure	☐ Oral (default) X Written	**Section 7.2** Payment Date	☐ 25th Day of Month following Month of delivery (default) X 45 Calendar Days following the Date of the Invoice or the Month of Delivery (the later)
Section 2.5 Confirm Deadline	X 2 Business Days after receipt (default) ☐ _____ Business Days after receipt	**Section 7.2** Method of Payment	☐ Wire transfer (default) ☐ Automated Clearinghouse Credit (ACH) X Warrant/EFT
Section 2.6 Confirming Party	☐ Seller (default) ☐ Buyer X Both Parties	**Section 7.7** Netting	X Netting applies (default) ☐ Netting does not apply
Section 3.2 Performance Obligation	X Cover Standard (default) ☐ Spot Price Standard	**Section 10.3.1** Early Termination Damages	x Early Termination Damages Apply (default) ☐ Early Termination Damages Do Not Apply
Note: The following Spot Price Publication applies to both of the immediately preceding.		**Section 10.3.2** Other Agreement Setoffs	X Other Agreement Setoffs Apply (default) ☐ Other Agreement Setoffs Do Not Apply
Section 2.26 Spot Price Publication	☐ Gas Daily Midpoint (default) X Gas Daily First of Month	**Section 14.5** Choice Of Law	Michigan
Section 6 Taxes	☐ Buyer Pays At and After Delivery Point (default) X Seller Pays Before and At Delivery Point	**Section 14.10** Confidentiality	☐ Confidentiality applies (default) x Confidentiality does not apply
x **Special Provisions** x **Addendum(s): See ¶15**			

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

Party Name	State of Michigan, Acquisition Services **Party Name**
By Name: Title:	By Name: Anthony DesChenes Title: Director, Commodities Division

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 2.7.

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. However, nothing herein shall be construed as a waiver of any objection to the admissibility of such evidence.

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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. "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.

2.2. "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.

2.3. "British thermal unit" or "Btu" shall mean the International BTU, which is also called the Btu (IT).

2.4. "Business Day" shall mean any day except Saturday, Sunday or Federal Reserve Bank holidays.

2.5. "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.

2.6. "Confirming Party" shall mean the party designated in the Base Contract to prepare and forward Transaction Confirmations to the other party.

2.7. "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.

2.8. "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.

2.9. "Contract Quantity" shall mean the quantity of Gas to be delivered and taken as agreed to by the parties in a transaction.

2.10. "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.

2.11. "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 an irrevocable standby letter of credit, a margin agreement, a prepayment, a security interest in an asset, a performance bond, guaranty, or other good and sufficient security of a continuing nature.

2.12. "Day" shall mean a period of 24 consecutive hours, coextensive with a "day" as defined by the Receiving Transporter in a particular transaction.

2.13. "Delivery Period" shall be the period during which deliveries are to be made as agreed to by the parties in a transaction.

2.14. "Delivery Point(s)" shall mean such point(s) as are agreed to by the parties in a transaction.

2.15. "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.

2.16. "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.

2.17. "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.

2.18. "Gas" shall mean any mixture of hydrocarbons and noncombustible gases in a gaseous state consisting primarily of methane.

2.19. "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.

2.20. "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.

2.21. "MMBtu" shall mean one million British thermal units, which is equivalent to one dekatherm.

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2.22. "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.

2.23. "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.

2.24. "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.

2.25. "Scheduled Gas" shall mean the quantity of Gas confirmed by Transporter(s) for movement, transportation or management.

2.26. "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.

2.27. "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.

2.28. "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.

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

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

3.4. In addition to Sections 3.2 and 3.3, the parties may provide for a Termination Option in a Transaction Confirmation executed in writing by both parties. The Transaction Confirmation containing the Termination Option will designate the length of nonperformance

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triggering the Termination Option and the procedures for exercise thereof, how damages for nonperformance will be compensated, and how liquidation costs will be calculated.

SECTION 4. TRANSPORTATION, NOMINATIONS, AND IMBALANCES

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

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

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

SECTION 5. QUALITY AND MEASUREMENT

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

SECTION 6. TAXES

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

SECTION 7. BILLING, PAYMENT, AND AUDIT

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

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

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

7.4. If the invoiced party, in good faith, disputes the amount of any such invoice or any part thereof, such invoiced party will pay such amount as it concedes to be correct; provided, however, if the invoiced party disputes the amount due, it must provide supporting documentation acceptable in industry practice to support the amount paid or disputed. 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

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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 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 14.8, 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 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.

8.4. 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, payments 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 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.

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), X may demand Adequate Assurance of Performance. "Adequate Assurance of Performance" shall mean sufficient security in the form, amount and for the term reasonably acceptable to X, including, but not limited to, a standby irrevocable letter of credit, a prepayment, a security interest in an asset or a performance bond or guaranty (including the issuer of any such security).

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; or (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; 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.

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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 or that are, in the reasonable opinion of the Non-Defaulting Party, commercially impracticable to liquidate and terminate ("Excluded Transactions"), which Excluded Transactions must be liquidated and terminated as soon thereafter as is reasonably practicable, 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:

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 (i) any Net Settlement Amount owed to the Non-Defaulting Party against any margin or other collateral held by it in connection with any Credit Support Obligation relating to the Contract; or (ii) any Net Settlement Amount payable to the Defaulting Party against any amount(s) payable by the Defaulting Party to the Non-Defaulting Party under any other agreement or arrangement between the parties.

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 owed to the Non-Defaulting Party against any margin or other collateral held by it 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

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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 such 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 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 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; 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 Agreement; (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 and Section 10, 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,

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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. MISCELLANEOUS

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; 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.

14.2. 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.

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

14.4. 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.

14.5. 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.

14.6. 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.

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

14.8. 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.

14.9. 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.

14.10. Unless the parties have elected on the Base Contract not to make this Section 14.10 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, or (iv) 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.

14.11 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.

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Section 15. Attachments, Exhibits and Additional Terms to NAESB Form

Incorporated by reference into this agreement are the following attachments and exhibits:

Exhibit A – Standard Terms & Conditions
Exhibit B – Transaction Confirmation
Exhibit C – Purchasing Guidelines and Scope of Work
Exhibit D – Listing of Facilities (Exhibit D will be provided at the time an award is made to define those accounts involved in the Transaction Confirmation.)
Exhibit E – Pricing (Exhibit E will be provided at the time an award is made to define pricing involved in the Transaction Confirmation.)

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.**

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Exhibit A - Standard Terms & Conditions

These Standard Terms and Conditions are attached to and made part of the Base Contract For the Short-Term Sale and Purchase of Natural Gas between Lakeshore Energy Services and the State of Michigan dated December 1, 2005. In the event of any conflicts between the specifications, terms, and conditions indicated by the State and those indicated by the Seller, those of the State take precedence.

1.0 ISSUING OFFICE AND CONTRACT ADMINISTRATION

The Contract is issued by the State of Michigan, Department of Management and Budget, Acquisition Services, hereinafter known as Acquisition Services. Acquisition Services is the sole point of contact in the State with regard to all procurement and contractual matters relating to the commodities and/or services described herein. Acquisition Services is the only office authorized to change, modify, amend, alter, clarify, etc., the specifications, terms, and conditions of the Contract. Acquisition Services will remain the SOLE POINT OF CONTACT throughout the procurement process. All communications relating to this procurement must be addressed to:

Rebecca Nevai, Buyer
Department of Management and Budget
Acquisition Services
2nd Floor, Mason Building
Lansing, Michigan 48909
(517) 373-8530
nevair@michigan.gov

2.0 PRIME SELLER RESPONSIBILITIES

The Seller will be required to assume responsibility for all contractual activities offered in this contract whether or not that Seller performs them. Further, the State will consider the Seller to be the sole point of contact with regard to contractual matters, including payment of any and all charges resulting from the anticipated contract. If any part of the work is to be subcontracted, the contract should include a list of subcontractors, including firm name and address, contact person, complete description of work to be subcontracted, and descriptive information concerning subcontractor's organizational abilities. The State reserves the right to approve subcontractors for this project and to require the Seller to replace subcontractors found to be unacceptable. The Seller is totally responsible for adherence by the subcontractor to all provisions of the contract.

3.0 NEWS RELEASES

News releases (including promotional literature and commercial advertisements) pertaining to the ITB and Contract or project to which it relates shall not be made without prior written State approval, and then only in accordance with the explicit written instructions from the State. No results of the activities associated with the ITB and Contract are to be released without prior written approval of the State and then only to persons designated.

4.0 DISCLOSURE

All information in a Seller's proposal and the Contract is subject to the provisions of the Freedom of Information Act. 1976 Public Act No. 442, as amended, MCL 15.231, et seq.

5.0 ACCOUNTING RECORDS

The Seller and all subcontractors shall maintain all pertinent financial and accounting records and evidence pertaining to the Contract in accordance with generally accepted principles of accounting and other procedures specified by the State of Michigan. Financial and accounting records shall be made available, upon request, to the State of Michigan, its designees, or the Michigan Auditor General at any time during the Contract period and any extension thereof, and for three years from expiration date and final payment on the Contract or extension thereof.

6.0 INDEMNIFICATION

A. General Indemnification

To the fullest extent permitted by law, the Seller shall indemnify, defend and hold harmless the State, its departments, divisions, agencies, sections, commissions, officers, employees and agents, from and against all losses, liabilities, penalties, fines, damages and claims (including taxes), and all related costs and expenses (including reasonable attorneys' fees and disbursements and costs of investigation, litigation, settlement, judgments, interest and penalties), arising from or in connection with any of the following:

1. any claim, demand, action, citation or legal proceeding against the State, its employees and agents arising out of or resulting from (1) the product provided or (2) performance of the work, duties, responsibilities, actions or omissions of the Seller or any of its subcontractors under this Contract.

2. any claim, demand, action, citation or legal proceeding against the State, its employees and agents arising out of or resulting from a breach by the Seller of any representation or warranty made by the Seller in the Contract;

3. any claim, demand, action, citation or legal proceeding against the State, its employees and agents arising out of or related to occurrences that the Seller is required to insure against as provided for in this Contract;

4. any claim, demand, action, citation or legal proceeding against the State, its employees and agents arising out of or resulting from the death or bodily injury of any person, or the damage, loss or destruction of any real or tangible personal property, in connection with the performance of services by the Seller, by any of its subcontractors, by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable; provided, however, that this indemnification obligation shall not apply to the extent, if any,

that such death, bodily injury or property damage is caused solely by the negligence or reckless or intentional wrongful conduct of the State;

5. any claim, demand, action, citation or legal proceeding against the State, its employees and agents which results from an act or omission of the Seller or any of its subcontractors in its or their capacity as an employer of a person.

B. Patent/Copyright Infringement Indemnification

To the fullest extent permitted by law, the Seller shall indemnify, defend and hold harmless the State, its employees and agents from and against all losses, liabilities, damages (including taxes), and all related costs and expenses (including reasonable attorneys' fees and disbursements and costs of investigation, litigation, settlement, judgments, interest and penalties) incurred in connection with any action or proceeding threatened or brought against the State to the extent that such action or proceeding is based on a claim that any piece of equipment, software, commodity or service supplied by the Seller or its subcontractors, or the operation of such equipment, software, commodity or service, or the use or reproduction of any documentation provided with such equipment, software, commodity or service infringes any United States or foreign patent, copyright, trade secret or other proprietary right of any person or entity, which right is enforceable under the laws of the United States. In addition, should the equipment, software, commodity, or service, or the operation thereof, become or in the Seller's opinion be likely to become the subject of a claim of infringement, the Seller shall at the Seller's sole expense (i) procure for the State the right to continue using the equipment, software, commodity or service or, if such option is not reasonably available to the Seller, (ii) replace or modify the same with equipment, software, commodity or service of equivalent function and performance so that it becomes non-infringing, or, if such option is not reasonably available to Seller, (iii) accept its return by the State with appropriate credits to the State against the Seller's charges and reimburse the State for any losses or costs incurred as a consequence of the State ceasing its use and returning it.

C. Indemnification Obligation Not Limited

In any and all claims against the State of Michigan, or any of its agents or employees, by any employee of the Seller or any of its subcontractors, the indemnification obligation under the Contract shall not be limited in any way by the amount or type of damages, compensation or benefits payable by or for the Seller or any of its subcontractors under worker's disability compensation acts, disability benefits acts, or other employee benefits acts. This indemnification clause is intended to be comprehensive. Any overlap in sub-clauses, or the fact that greater specificity is provided as to some categories of risk, is not intended to limit the scope of indemnification under any other sub-clause.

D. Continuation of Indemnification Obligation

The duty to indemnify will continue in full force and affect not withstanding the expiration or early termination of the Contract with respect to any claims based on facts or conditions, which occurred prior to termination.

E. Buyer Indemnification of Seller

Pursuant to Michigan Constitution Provision 9, Section 18, the State is prohibited from indemnifying the Seller. This supercedes NAESB Contract Section 8.3.

7.0 SELLER'S LIABILITY INSURANCE

The Seller is required to provide proof of the minimum levels of insurance coverage as indicated below. The purpose of this coverage shall be to protect the State from claims which may arise out of or result from the Seller's performance of services under the terms of this Contract, whether such services are performed by the Seller, or by any subcontractor, or by anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable.

The Seller waives all rights against the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees and agents for recovery of damages to the extent these damages are covered by the insurance policies the Seller is required to maintain pursuant to this Contract. The Seller also agrees to provide evidence that all applicable insurance policies contain a waiver of subrogation by the insurance company.

All insurance coverages provided relative to this Contract/Purchase Order is PRIMARY and NON-CONTRIBUTING to any comparable liability insurance (including self-insurances) carried by the State.

The Insurance shall be written for not less than any minimum coverage herein specified or required by law, whichever is greater. All deductible amounts for any of the required policies are subject to approval by the State.

The State reserves the right to reject insurance written by an insurer the State deems unacceptable.

BEFORE THE CONTRACT IS SIGNED BY BOTH PARTIES OR BEFORE THE PURCHASE ORDER IS ISSUED BY THE STATE, THE SELLER MUST FURNISH TO THE DIRECTOR OF ACQUISITION SERVICES, CERTIFICATE(S) OF INSURANCE VERIFYING INSURANCE COVERAGE. THE CERTIFICATE MUST BE ON THE STANDARD "ACCORD" FORM. THE CONTRACT OR PURCHASE ORDER NO. MUST BE SHOWN ON THE CERTIFICATE OF INSURANCE TO ASSURE CORRECT FILING. All such Certificate(s) are to be prepared and submitted by the Insurance Provider and not by the Seller. All such Certificate(s) shall contain a provision indicating that coverages afforded under the policies WILL NOT BE CANCELLED, MATERIALLY CHANGED, OR NOT RENEWED without THIRTY (30) days prior written notice, except for 10 days for non-payment of premium, having been given to the Director of Acquisition Services, Department of Management and Budget. Such NOTICE must include the CONTRACT NUMBER affected and be mailed to: Director, Acquisition Services, Department of Management and Budget, P.O. Box 30026, Lansing, Michigan 48909.

The Seller is required to provide the type and amount of insurance checked (☑) below:

☑ 1. Commercial General Liability with the following minimum coverages:

$2,000,000 General Aggregate Limit other than Products/Completed Operations

$2,000,000 Products/Completed Operations Aggregate Limit
$1,000,000 Personal & Advertising Injury Limit
$1,000,000 Each Occurrence Limit
$500,000 Fire Damage Limit (any one fire)

The Seller must list the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees and agents as ADDITIONAL INSUREDS on the Commercial General Liability policy.

☑ 2. If a motor vehicle is used to provide services or products under this Contract, the Seller must have vehicle liability insurance on any auto including owned, hired and non-owned vehicles used in Seller's business for bodily injury and property damage as required by law.

The Seller must list the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees and agents as ADDITIONAL INSUREDS on the vehicle liability policy.

☑ 3. Worker's disability compensation, disability benefit or other similar employee benefit act with minimum statutory limits. NOTE: (1) If coverage is provided by a State fund or if Seller has qualified as a self-insurer, separate certification must be furnished that coverage is in the state fund or that Seller has approval to be a self-insurer; (2) Any citing of a policy of insurance must include a listing of the States where that policy's coverage is applicable; and (3) Any policy of insurance must contain a provision or endorsement providing that the insurers' rights of subrogation are waived. This provision shall not be applicable where prohibited or limited by the laws of the jurisdiction in which the work is to be performed.

☐ 4. For contracts providing temporary staff personnel to the State, the Seller shall provide an Alternate Employer Endorsement with minimum coverage of $1,000,000.

☑ 5. Employers liability insurance with the following minimum limits:

$100,000 each accident
$100,000 each employee by disease
$500,000 aggregate disease

8.0 CANCELLATION

The State may cancel this Contract without further liability or penalty to the State, its departments, divisions, agencies, offices, commissions, officers, agents, and employees for any of the following reasons:

1. Material Breach by the Seller. In the event that the Seller breaches any of its material duties or obligations under the Contract, which are either not capable of or subject to being cured, or are not cured within the time period specified in the written notice of breach provided by the State, or pose a serious and imminent threat to the health and safety of any person, or the imminent loss, damage or destruction of any real or tangible personal property, the State may, having

provided written notice of cancellation to the Seller, cancel this Contract in whole or in part, for cause, as of the date specified in the notice of cancellation.

In the event that this Contract is cancelled for cause, in addition to any legal remedies otherwise available to the State by law or equity, the Seller shall be responsible for all costs incurred by the State in canceling the Contract, including but not limited to, State administrative costs, attorneys fees and court costs, and any additional costs the State may incur to procure the services required by this Contract from other sources. All excess re-procurement costs and damages shall not be considered by the parties to be consequential, indirect or incidental, and shall not be excluded by any other terms otherwise included in the Contract.

In the event the State chooses to partially cancel this Contract for cause charges payable under this Contract will be equitably adjusted to reflect those services that are cancelled.

In the event this Contract is cancelled for cause pursuant to this section, and it is therefore determined, for any reason, that the Seller was not in breach of contract pursuant to the provisions of this section, that cancellation for cause shall be deemed to have been a cancellation for convenience, effective as of the same date, and the rights and obligations of the parties shall be limited to that otherwise provided in the Contract for a cancellation for convenience.

2. The State may cancel the Contract in the event the State no longer needs the services or products specified in the Contract, or in the event program changes, changes in laws, rules or regulations, relocation of offices occur, or the State determines that statewide implementation of the Contract is not feasible, or if prices for additional services requested by the State are not acceptable to the State. The State may cancel the Contract without further liability to the State, its departments, divisions, agencies, sections, commissions, officers, agents and employees by giving the Seller written notice of such cancellation 30 days prior to the date of cancellation.

3. Non-Appropriation. In the event that funds to enable the State to effect continued payment under this Contract are not appropriated or otherwise made available. The Seller acknowledges that, if this Contract extends for several fiscal years, continuation of this Contract is subject to appropriation or availability of funds for this project. If funds are not appropriated or otherwise made available, the State shall have the right to cancel this Contract at the end of the last period for which funds have been appropriated or otherwise made available by giving written notice of cancellation to the Seller. The State shall give the Seller written notice of such non-appropriation or unavailability within 30 days after it receives notice of such non-appropriation or unavailability.

4. Criminal Conviction. In the event the Seller, an officer of the Seller, or an owner of a 25% or greater share of the Seller, is convicted of a criminal offense incident to the application for or performance of a State, public or private Contract or subcontract; or convicted of a criminal offense including but not limited to any of the following: embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, attempting to influence a public employee to breach the ethical conduct standards for State of Michigan employees; convicted

under State or federal antitrust statutes; or convicted of any other criminal offense which in the sole discretion of the State, reflects upon the Seller's business integrity.

5. Approvals Rescinded. The State may terminate this Contract without further liability or penalty in the event any final administrative or judicial decision or adjudication disapproves a previously approved request for purchase of personal services pursuant to Constitution 1963, Article 11, section 5, and Civil Service Rule 7. Termination may be in whole or in part and may be immediate as of the date of the written notice to Seller or may be effective as of the date stated in such written notice.

Seller Obligations Upon Cancellation.
Upon cancellation, the State will not forward the Seller any new transaction confirmations; however, the Seller shall fulfill its obligations on any outstanding executing transaction confirmations. The Contract shall not be fully closed out until all outstanding obligations have been met.

9.0 TRANSITION ASSISTANCE

If this Contract is not renewed at the end of this term, or is canceled prior to its expiration, for any reason, the Seller must provide for up to three months after the expiration or cancellation of this Contract, all reasonable transition assistance requested by the State, to allow for the expired or canceled portion of the Services to continue without interruption or adverse effect, and to facilitate the orderly transfer of such services to the State or its designees. Such transition assistance will be deemed by the parties to be governed by the terms and conditions of this Contract, (notwithstanding this expiration or cancellation) except for those Contract terms or conditions that do not reasonably apply to such transition assistance. The State shall pay the Seller for any resources utilized in performing such transition assistance at the most current rates provided by the Contract for Contract performance.

10.0 ASSIGNMENT

The Seller shall not have the right to assign the Contract or to assign or delegate any of its duties or obligations under the Contract to any other party (whether by operation of law or otherwise), without the prior written consent of the State. Any purported assignment in violation of this Section shall be null and void. Further, the Seller may not assign the right to receive money due under the Contract without the prior written consent of the Director of Acquisition Services.

11.0 DELEGATION

The Seller shall not delegate any duties or obligations under the Contract to a subcontractor other than a subcontractor named and approved in the bid unless the Director of Acquisition Services has given written consent to the delegation.

12.0 NON-DISCRIMINATION CLAUSE

In the performance of a Contract or purchase order, the Seller agrees not to discriminate against any employee or applicant for employment, with respect to their hire, tenure,

terms, conditions or privileges of employment, or any matter directly or indirectly related to employment, because of race, color, religion, national origin, ancestry, age, sex, height, weight, marital status, physical or mental handicap or disability. The Seller further agrees that every subcontract entered into for the performance of any Contract or purchase order resulting herefrom will contain a provision requiring non-discrimination in employment, as herein specified, binding upon each subcontractor. This covenant is required pursuant to the Elliot Larsen Civil Rights Act, 1976 Public Act 453, as amended, MCL 37.2201, et seq, and the Persons With Disabilities Civil Rights Act, 1976 Public Act 220, as amended, MCL 37.1101, et seq, and any breach thereof may be regarded as a material breach of the Contract or purchase order.

13.0 MODIFICATION OF SERVICE

Acquisition Services reserves the right to modify this contract at any time during the contract term. Such modification may include changing the locations to be serviced, additional locations to be serviced, method or manner of performance of the work, number of days service is to be performed, addition or deletion of tasks to be performed, addition or deletion of items, and/or any other modifications deemed necessary. Any changes in pricing proposed by the Seller resulting from the proposed changes are subject to acceptance by the State. Changes may be increases or decreases. IN THE EVENT PRICES ARE NOT ACCEPTABLE TO THE STATE, THE CONTRACT SHALL BE SUBJECT TO COMPETITIVE BIDDING BASED UPON THE NEW SPECIFICATION.

14.0 ACCEPTANCE OF PERSONNEL

The State further reserves the right to interview the key personnel assigned by the Seller to this project and to recommend reassignment of personnel deemed unsatisfactory by the State. The State reserves the right to approve subcontractors for this project and to require Seller to replace subcontractors who are found to be unacceptable.

15.0 UNFAIR LABOR PRACTICES

Pursuant to 1980 Public Act 278, as amended, MCL 423.231, et seq, the State shall not award a Contract or subcontract to an employer whose name appears in the current register of employers failing to correct an unfair labor practice compiled pursuant to Section 2 of the Act. A Seller of the State, in relation to the Contract, shall not enter into a Contract with a subcontractor, manufacturer, or supplier whose name appears in this register. Pursuant to Section 4 of 1980 Public Act 278, MCL 423.324, the State may void any Contract if, subsequent to award of the Contract, the name of the Seller as an employer, or the name of the subcontractor, manufacturer or supplier of the Seller appears in the register.

16.0 AUDIT OF CONTRACT COMPLIANCE

The Seller agrees that the State may, upon 24-hour notice, perform an audit at Seller's location(s) to determine if the Seller is complying with the requirements of the Contract. The Vendor agrees to cooperate with the State during the audit and produce all records and documentation that verifies compliance with the Contract requirements.

17.0 SAFETY AND ACCIDENT PREVENTION

In performing work under this Contract on State premises, the Seller shall conform to any specific safety requirements contained in the Contract or as required by law or regulation. The Seller shall take any additional precautions as the State may reasonably require for safety and accident prevention purposes. Any violation by the Seller of such safety requirements, rules, laws or regulations shall be a material breach of the Contract subject to the cancellation provisions contained herein.

18.0 WORKPLACE SAFETY AND DISCRIMINATORY HARASSMENT

In performing services for the State pursuant to this Contract, the Seller shall comply with Department of Civil Service Rules 2-20 regarding Workplace Safety and 1-8.3 regarding Discriminatory Harassment. In addition, the Seller shall comply with Civil Service Regulations governing workplace safety and discriminatory harassment and any applicable state agency rules on these matters that the agency provides to the Seller. Department of Civil Service Rules and Regulations can be found on the Department of Civil Service website at www.michigan.gov/mdcs.

19.0 ASSIGNMENT OF ANTITRUST CAUSE OF ACTION

For and in consideration of the opportunity to submit a quotation and other good and valuable consideration, the Seller hereby assigns, sells and transfers to the State of Michigan all rights, title and interest in and to all causes of action it may have under the antitrust laws of the United States or this State for price fixing, which causes of action have accrued prior to the date of payment and which relate solely to the particular goods, commodities, or services purchased or procured by this State pursuant to this transaction.

20.0 NOTICE AND RIGHT TO CURE

In the event of a curable breach by the Seller, the State shall provide the Seller written notice of the breach and a time period to cure said breach described in the notice. This section requiring notice and an opportunity to cure shall not be applicable in the event of successive or repeated breaches of the same nature or if the State determines in its sole discretion that the breach poses a serious and imminent threat to the health or safety of any person or the imminent loss, damage or destruction of any real or tangible personal property.

21.0 NO WAIVER OF DEFAULT

The failure of a party to insist upon strict adherence to any term of the Contract shall not be considered a waiver or deprive the party of the right thereafter to insist upon strict adherence to that term or any other term of the Contract.

22.0 REVISIONS, CONSENTS, AND APPROVALS

The Contract may not be modified, amended, extended, or augmented except by a writing executed by the parties hereto, and any breach or default by a party shall not be waived or released other than in writing signed by the other party.

23.0 SEVERABILITY

Each provision of the Contract shall be deemed to be severable from all other provisions of the Contract and, if one or more of the provisions of the Contract shall be declared invalid, the remaining provisions of the Contract shall remain in full force and effect.

24.0 SURVIVOR

Any provisions of the Contract that impose continuing obligations on the parties including, but not limited to the Seller's indemnity and other obligations shall survive the expiration or cancellation of the Contract for any reason.

25.0 GOVERNING LAW

The Contract shall in all respects be governed by, and construed in accordance with, the laws of the State of Michigan. Any dispute arising herein shall be resolved in the State of Michigan.

26.0 RELATIONSHIP OF THE PARTIES (INDEPENDENT CONTRACTOR)

The relationship between the State and the Seller is that of client and independent Contractor. No agent, employee, or servant of the Seller or any of its subcontractors shall be or shall be deemed to be an employee, agent, or servant of the State for any reason. The Seller will be solely and entirely responsible for its acts and the acts of its agents, employees, servants and subcontractors during the performance of this Contract.

27.0 HEADINGS

Captions and headings used in the Contract are for information and organization purposes. Captions and headings, including inaccurate references, do not, in any way, define or limit the requirements or terms and conditions of this Contract.

28.0 INCURRING COSTS

The State of Michigan is not liable for any cost incurred by the Seller prior to signing of the Contract. The State fiscal year is October 1st through September 30th. The Seller(s) should realize that payments in any given fiscal year are contingent upon enactment of legislative appropriations. Total liability of the State is limited to terms and conditions of the Contract.

29.0 SELLER RESPONSIBILITIES

The Seller will be required to assume responsibility for all contractual activities, whether or not that Seller performs them. Further, the State will consider the Seller to be the sole point of contact with regard to contractual matters, including payment of any and all charges resulting from the anticipated Contract. If any part of the work is to be subcontracted, the Contract must include a list of subcontractors, including firm name and address, contact person and a complete description of work to be subcontracted.

The State reserves the right to approve subcontractors and to require the Seller to replace subcontractors found to be unacceptable. The Seller is totally responsible for adherence by the subcontractor to all provisions of the Contract. Any change in subcontractors must be approved by the State, in writing, prior to such change.

30.0 TAXES

Sales Tax: For purchases made directly by the State of Michigan, the State is exempt from State and Local Sales Tax. Prices shall not include such taxes. Exemption Certificates for State Sales Tax will be furnished upon request.

Federal Excise Tax: The State of Michigan may be exempt for Federal Excise Tax, or such taxes may be reimbursable, if articles purchased under this Contract are used for the State's exclusive use. Certificates exclusive use for the purposes of substantiating a tax-free, or tax-reimbursable sale will be sent to the Contractor upon request. If a sale is tax exempt or tax reimbursable under the Internal Revenue Code, prices shall not include the Federal Excise Tax.

The State's Tax Exempt Certification is available for Contractor viewing upon request to the Contract Administrator.

31.0 RIGHTS IN DATA

A. The State will be and remain the owner of all data made available by the State to Seller or its agents, Subcontractors or representatives pursuant to the Contract. Seller will not use the State's data for any purpose other than providing the Services, nor will any part of the State's data be disclosed, sold, assigned, leased or otherwise disposed of to the general public or to specific third parties or commercially exploited by or on behalf of Seller, nor will any employee of Seller other than those on a strictly need to know basis have access to the State's data.

B. The State is and shall remain the owner of all State-specific data pursuant to the Contract. The State may use the data provided by the Seller for any purpose. The State will not possess or assert any lien or other right against the Seller's data. Other material developed and provided to the State shall remain the State's sole and exclusive property.

TRANSACTION CONFIRMATION
FOR IMMEDIATE DELIVERY

EXHIBIT B

State of Michigan

Date: _____

Transaction Confirmation #: _____

This Transaction Confirmation is subject to the Base Contract between Seller and Buyer dated _____. The terms of this Transaction Confirmation are binding unless disputed in writing within 2 Business Days of receipt unless otherwise specified in the Base Contract.

SELLER:	**BUYER:**
_____ _____ _____ Attn: _____ Phone: _____ Fax: _____ Base Contract No. _____ Transporter: _____ Transporter Contract Number: _____	State of Michigan, Acquisition Services 530 West Allegan Street Mason Building, 2nd Floor Lansing, Michigan 48933 P. O. Box 30026 Lansing, MI 48909 Attn: Rebecca Nevai, Buyer Phone: 517-373-8530 Fax: 517-335-0046 Base Contract No. _____ E-mail: nevair@michigan.gov

Contract Price:

Delivery Period: Begin: End:

Performance Obligation and Contract Quantity:

Delivery Point(s):

Special Conditions:

Seller: _____	Buyer: **State of Michigan, Acquisition Services**
By: _____	By: _____
Title: _____	Title: _____
Date: _____	Date: _____

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Exhibit C Pricing Guidelines & Scope of Work

1.0 BACKGROUND

The State of Michigan Energy Purchasing Cooperative (Cooperative) consists of State agencies, universities, community colleges, cities, counties, and K-12 public schools. The State of Michigan operates many facilities within Michigan that consume natural gas as their only or primary fuel source. During the term of the natural gas supply contract, additional State agencies and public entities have the option to join the supply Energy Purchasing Cooperative, utilizing the natural gas contracts awarded by the State of Michigan.

The State may, per Act Number 431 of the Public Acts of 1984, include cities, villages, counties, townships, school districts, intermediate school districts, non-profit hospitals, institutions of higher learning, and community or junior colleges in the State of Michigan Energy Purchasing Cooperative.

The Cooperative members currently consume approximately 5 BCF annually, to be delivered to various utility service territories. Sixty five to seventy percent of the annual usage occurs in the winter months (November– March).

The Cooperative's Invitations to Bid will be forwarded to a pool of pre-qualified natural gas vendors.

> **Tier One Vendors** are Sellers that are pre-qualified to potentially supply all of the natural gas requirements of the Cooperative.
>
> **Tier Two Vendors** are Sellers that are pre-qualified to potentially supply only part of the natural gas requirements of the Cooperative.

One year contracts will be awarded for each service area with two additional one year contract extension options.

2.0 DEFINITIONS

For purposes of this document, the following definitions will be used:

2.1 Gas Options are like owning an insurance policy. Options give the owner the right but not the obligation to purchase (or to sell) a natural gas contract at a defined price for a defined date. It is similar to an insurance policy in that the owner pays a premium and the financial market provides coverage.

2.2 Standardized Financial Instruments are a defined block of 10,000 MMBtu (10,000 MMBtu = 1 NYMEX contract) for a specified delivery month and price as outlined in the transaction. The fee for processing said transaction should be incorporated into the cost of the transaction. Examples of such instruments are Gas Options, Cap Prices, Fixed Prices, etc. These instruments can be purchased for a period such as one month or multiple months.

2.3 NYMEX Settlement Price shall mean the price established by the NYMEX Exchange Committee at the close of the trading session for the specified month.

2.4 Point of Delivery shall be the following Citygates: DTE Energy (MichCon), Consumers Energy Company (CEC), SEMCO Energy Company (SEMCO), and Aquila (MGU).

2.5 Gas Price Index shall mean the monthly index for said month published in the *platts Gas Daily Price Guide.* For the CEC service area, the Upper Midwest, Consumers Energy city-gate is the reference price. For the MichCon service area, the Upper Midwest Mich Con city-gate is the reference price. For the SEMCO facilities not serviced by Northern Natural Gas Company and for the MGU service area, the Upper Midwest, ANR Pipeline ML7 is the reference price. For the SEMCO facilities serviced by the Northern Natural Gas Company pipeline the reference index price will be Midpoint Average, Others, Northern, demarc.

2.6 Market Basis shall be the difference between the NYMEX Settlement Price and the Gas Price Index for the Point of Delivery for the specified month.

2.7 Default Pricing Structure shall equal the Gas Price Index.

2.8 Cap Price is the maximum contracted price that the State of Michigan has agreed to pay for natural gas.

2.9 Fixed Price is the guaranteed gas price the State of Michigan has agreed to pay for a specified volume of gas to be delivered during a specified period.

2.10 Pricing Structures are the combination of the various Standardized Financial Structures that the State of Michigan has executed to determine the cost of natural gas for the customers participating in the gas program.

2.11 Contracted Basis shall be the Basis price for volumes purchased at NYMEX using a Standardized Financial Instruments. If a Contracted Basis is not executed for any Standardized Financial Instrument, the Contracted Basis will automatically equal the Market Basis.

2.12 Utility shall refer to the local distribution company servicing the participating facilities. For purposes of this agreement Utility shall refer to the Consumers Energy Company, DTE Energy (Mich Con Gas Company), SEMCO Energy Company, or Aquila (Michigan Gas Utilities).

3.0 SELLER'S SCOPE OF WORK

FOR TIER ONE VENDORS

A list of services to be completed by the Seller is identified. The services include, but are not limited to, the following:

3.1 Forecast usage each month for the State of Michigan participating facilities and any public entity participating as a full requirements member.

3.2 Prepare scheduling details and file nominations for delivery of required gas commodity to the Point Delivery for all members.

3.3 Implement monthly monitoring procedures to eliminate shortfalls, over-deliveries, and avoid supply interruptions for all members.

3.4 Adhere to deadlines and other operating/procedural requirements as dictated by other companies associated with the Cooperative to avoid penalties and other unexpected costs.

3.5 Act as a liaison between the Cooperative members and the Utility in the event of curtailments and interruptions. Utilize alternate fuel capabilities to respond to Utility interruptions where possible. Ensure proper notice is given to participating facilities to transition from natural gas to alternate fuels.

3.6 Maintain a listing of participating facilities in the gas program, the energy contact person for each facility (name, phone, and fax), that provides meter read data and the status of alternate fuel,.

3.7 At the request of the Contract Administrator and/or the State's Energy Consultant, additional reporting may be required, attendance of meetings may be requested, assistance in explaining the gas pricing used, or other services may be requested.

3.8 The Seller will assist the State in acquiring Standardized Financial Instruments as agreed to between the State (and/or the State's Energy Consultant) and the Seller. The State (or the State's Energy Consultant) will prepare within two (2) working days a Transaction Confirmation detailing the transaction completed and e-mail said document to the Seller. The Seller will mail two signed copies of the Transaction Confirmation to the State for further execution. The State will execute said document and return one original copy to the Seller.

3.9 The Seller and the Energy Consultant will catalogue all Standardized Financial Transactions. Five working days before the beginning of each month, the Seller and the State's Energy Consultant will confirm those transactions for the upcoming month.

FOR THE TWO VENDORS

3.1 Prepare scheduling details and file nominations for delivery of required gas commodity to the Point Delivery as detailed in the fully executed Transaction Confirmation.

4.0 SELLER'S REIMBURSEMENT

The Seller will be paid for the gas supply and services as defined:

4.1 Commodity Fee – The State of Michigan will pay the Seller a per unit fee for each unit (Mcf or MMBtu, depending on the Utility) of gas delivered to the MichCon, MGU, SEMCO, and CEC service territories. The Commodity Fee will be based on usage for those facilities within the SEMCO service territory.

4.2 Interstate demand charges and/or Utility Balancing Charges will also be paid for those facilities within the SEMCO service territory provided both the Seller and Buyer agree to said charges.

5.0 BILLING AND PAYMENT

Billing and invoicing shall be based upon actual deliveries (exception as defined previously for the SEMCO service area) at the Utility citygate. Seller's invoices shall not be sent until after the conclusion of the calendar month. Seller invoices shall include the time period covered, volumes and prices, and supporting documentation from the Utility that said deliveries were made. A copy of all invoices and supporting documentation shall be provided to the State's Energy Consultant also.

If any under-delivery, over-delivery, or other similar charges interconnected with Utility are incurred, Seller shall pay all such charges or penalties, which are solely Seller's liability;

Payment is due to Seller not later than 45 days from the date a correct invoice is received by the State. If the invoice is deemed incorrect by the State, the State will send an Invoice Dispute Notification to the Seller, to which the Seller should respond in a timely manner. The State will pay the non-disputed amount. The State will endeavor to process invoices and dispatch payments in a timely manner. If the State payments to the Seller are received later than 45 days, Seller's only resort shall be interest charges in accordance with the Public Act 279 of 1984 (Prompt Payment Act). Interest charges are calculated as 0.75% of the non-disputed payment due per month or portion of a month that the payment remained past due.

If payment is to be made to a party other than the Seller, the Seller must furnish a statement to this effect to the State's contact person.