

**NATURAL GAS PREPAY
PARTICIPATION AGREEMENT**

This Agreement entered into this ____ day of _____, by and between the Kansas Municipal Gas Agency ("KMGA") and the City of Lyons, Kansas (the "City):

WHEREAS, pursuant to an interlocal cooperation agreement, certain Kansas municipalities have joined together under the provisions of K.S.A. 12-2901 *et seq.*, to organize and create KMGA; and

WHEREAS, the City owns and operates a municipal natural gas, electric or other municipal utility system that uses natural gas and is a member of KMGA pursuant to the provisions of the interlocal cooperation agreement and the KMGA Bylaws; and

WHEREAS, KMGA intends to contract with the Minnesota Municipal Gas Agency, a public nonprofit corporation or public instrumentality ("MMGA"), or its successor or assigns, under a project to acquire long-term supplies of Natural Gas from a gas supplier, pursuant to a Natural Gas Supply Agreement (the "Gas Supply Agreement"), to meet a portion of the Natural Gas supply requirements of KMGA's members that elect to participate (collectively, the "Project Participants") through a gas prepayment project offered by MMGA (the "Project"); and

WHEREAS, KMGA will act on behalf of the Project Participants to acquire Gas and provide other management services related to the Project; and

WHEREAS, the City desires to participate in the Project and receive the economic benefits set forth in this Agreement; and

WHEREAS, K.S.A. 12-825j authorizes the City to enter into contracts with any person, firm, corporation or other municipality for the acquisition of Natural Gas upon such terms as may be deemed necessary and reasonable by the governing body of the City; provided such contracts shall not exceed a period of forty years and shall not be payable by the levy of any tax; and

WHEREAS, this Agreement is intended to enable KMGA to pass through the benefits and obligations of KMGA under the Gas Supply Agreement to the City.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the parties agree as follows:

DEFINITIONS

"**Agreement**" shall mean this Natural Gas Prepay Participation Agreement by and between KMGA and the City.

"**City**" shall mean the City of Lyons, Kansas.

"**Commercially Reasonable**" or "**Commercially Reasonable Efforts**" shall have the meaning set forth in the Gas Supply Agreement.

“**Contract Price**” shall have the meaning set forth in the Gas Supply Agreement.

“**Delivery Period**” means the period as defined in *Article 1* of the Gas Supply Agreement commencing in 2019 and ending in 2049, unless earlier terminated pursuant to *Article 5* of the Gas Supply Agreement.

"**Delivery Points**" shall mean the respective Primary Delivery Points or the Alternate Delivery Points as defined in *Exhibit A*.

"**Gas**" or "**Natural Gas**" shall mean any mixture of hydrocarbons or of hydrocarbons and noncombustible gases, in a gaseous state consisting essentially of methane, which meets the quality requirements of the pipeline industry standard.

“**Gas Day**” means a period of 24 consecutive hours beginning at 9:00 a.m. CPT on a calendar day and ending at 9:00 a.m. CPT on the next calendar day or such other period as determined under the Gas Supply Agreement. The date of the Gas Day shall be the date at its beginning.

“**Gas Supply Agreement**” shall mean the agreement between KMGA and MMGA for the long-term supply of Gas to be delivered to the Project Participants, which is substantially in the form set forth in *Exhibit C* attached hereto; provided, however, the parties agree the fully executed Gas Supply Agreement will be added as *Exhibit C* to this Agreement after execution.

"**KMGA**" shall mean the Kansas Municipal Gas Agency.

“**KMGA Prepay Administrative Fee**” shall have the meaning as defined in *Section 5.2* of the Agreement.

“**MMGA**” means the governmental or quasi-governmental entity that has the authority to issue municipal revenue bonds with the interest thereon being exempt from federal taxation pursuant to 26 U.S.C. §103.

"**Participation Agreements**" shall mean this and other Agreements entered into by and between KMGA and Project Participants.

“**Parties**” or “**Party**” shall mean collectively or individually, the City and KMGA.

"**Project**" shall mean the KMGA Gas Prepay project.

"**Project Gas**" shall mean Gas supplies to the Project Participants pursuant to this Agreement.

"**Project Participants**" shall mean the cities participating in the Project.

"**System**" shall mean the Natural Gas and/or Electric utility systems of the City.

ARTICLE I

Gas Purchases and KMGA Services

1.1 During the Delivery Period, the City shall purchase the volumes of Gas as specified on *Exhibit B* from the Project that are made available to KMGA pursuant to the terms and conditions of the Gas Supply Agreement.

1.2 The Contract Price of Gas shall be established as set forth in the Gas Supply Agreement.

1.3 In the event the City's failure to take Project Gas is due to load loss on its system, upon reasonable notice, KMGA shall first seek to transfer such gas volumes to other Project Participants. If no other Project Participants agree to such transfer, then KMGA may request that MMGA use Commercially Reasonable Efforts to sell, or arrange for sale, such quantities pursuant to the provisions of the Gas Supply Agreement. The City shall be obligated to pay the Contract Price for such quantities, and any amounts received from the sale, less all directly incurred costs or expenses including the project administration fee and a remarketing administrative charge, will be credited to the City pursuant to the Gas Supply Agreement.

1.4 The Project Gas will be delivered, and title will pass to the City, at the Delivery Points.

1.5 KMGA shall provide the City with services relating to the purchase and sale of Gas, nomination of gas supplies and any and all other operational transactions associated with the delivery of Project Gas to the City.

ARTICLE II

Term

2.1 This Agreement shall be effective from the date first herein written above and continue in full force and effect for a term ending on the later of (a) termination of the Gas Supply Agreement attached hereto as *Exhibit C*, or (b) the end of the Delivery Period and final billings; provided, however, the term will not exceed the limitations provided in K.S.A. 12-825j.

2.2 The Parties recognize that KMGA's right of early termination as provided for in *Section 5.3* of the Gas Supply Agreement allows for partial termination by KMGA whereby each Project Participant has the option to terminate their share of gas volumes under the Gas Supply Agreement.

ARTICLE III

Relationship to Other Contracts

3.1 Except for the identity of the Project Participants and the volumes of Gas set forth on *Exhibit B*, (and, as applicable, other information specific to each individual Project Participant), this Agreement is and shall remain identical to the Participation Agreements of the other Project Participants.

ARTICLE IV

Gas Supply Agreement

4.1 KMGGA will enter into the Gas Supply Agreement on behalf of the City and all the other Project Participants. The terms and provisions of the Gas Supply Agreement are incorporated herein by reference and are attached hereto as *Exhibit C*. It is the intent of KMGGA and the City that the benefits and obligations accruing to KMGGA in the Gas Supply Agreement will flow through to the City pursuant to this Agreement. Accordingly, in the event of a conflict between the terms of this Agreement and the Gas Supply Agreement, the Parties to this Agreement shall look to the terms of the Gas Supply Agreement to attempt to resolve such conflict.

ARTICLE V

Cost Responsibility

5.1 It is the Parties' intention that the City will be responsible for its allocable share of the (a) Project Gas tendered for delivery, (b) any other costs, taxes, penalties or charges incurred by KMGGA under the Gas Supply Agreement, (c) KMGGA Prepay Administrative Fee and other reasonable costs associated with its operation of the Project. City's obligation to pay for its allocable share of such costs shall be effective upon the start of the Delivery Period and continue until all amounts due hereunder are paid in full notwithstanding the occurrence of any event or the taking of any action permitted by this Agreement.

5.2 The KMGGA Prepay Administrative Fee shall be (i) an amount established by KMGGA Board of Directors from time to time based on KMGGA's budget, plus (ii) where applicable, City's portion of KMGGA's costs incurred that are related to the Project but were not included in KMGGA's budget. City shall have the right to review and have input on the KMGGA budget via the KMGGA Board of Directors. The KMGGA Prepay Administrative Fee shall not exceed the management fee assessed by KMGGA on gas supplied to cities under the Gas Acquisition Management Project Participation Agreement.

ARTICLE VI

Billing and Payments

6.1 KMGGA will bill the City for actual volumes of gas tendered for delivery in MMBtu, adjusted for fuel losses and taxes imposed on KMGGA, for each calendar month on or before the 20th day of the following month.

6.2 KMGGA will bill the City in advance the estimated cost for projected gas supply to be delivered in the second month following the current calendar month as referenced in *Section 6.1* of this Agreement. KMGGA will provide a true-up on subsequent invoices of the estimated costs to the actual costs and volumes when that information is available.

6.3 The City will pay invoices within thirty (30) days from the date such bills are sent by KMGGA. The City agrees to pay all invoices without deduction and may contest any invoice as provided in *Section 6.4* of this Agreement. Interest on any unpaid amount shall accrue from the date due until the date upon which payment is made at the lesser of one percent (1%) per month or the highest rate allowed by law. KMGGA shall have the right to suspend delivery of all or part of the gas supply to the City if (a) KMGGA has not received payment of an invoice by the tenth (10th) day after invoice due date, or (b) if the City breaches any other term

or condition of this Agreement. Suspension of delivery of gas shall be in addition to any and all other remedies available at law or in equity.

6.4 In the event the City desires to dispute all or any part of the amount billed by KMGGA it shall nevertheless pay the full amount of the invoice when due and give notification in writing within ninety (90) days from the date of the statements stating the specific grounds for the dispute and the amount in dispute. The City will not be entitled to any adjustment on account of any disputed invoice amounts which are not brought to the attention of KMGGA by the City within the time and in the manner herein specified.

6.5 All amounts payable by the City under this Agreement shall be due whether or not future Gas deliveries are suspended, interrupted, interfered with, reduced, curtailed or terminated in whole or in part, and such payments shall not be subject to any reduction, whether by offset, counterclaim, recoupment or otherwise, and shall not be conditioned upon the performance or nonperformance of KMGGA or any other person under this Agreement or any other agreement for any cause whatsoever.

ARTICLE VII

Documentation Regarding the Project

7.1 KMGGA will make reasonable efforts to obtain any specific information on the Project requested by the City.

7.2 The City agrees to deliver such certificates as required under the Gas Supply Agreement upon request by KMGGA.

ARTICLE VIII

Liability and Indemnification

8.1 The City expressly agrees, to the fullest extent permitted by law, to indemnify, hold harmless and defend KMGGA against any and all claims, liability, costs or expenses (including without limitation attorneys' fees and expenses) for loss, damage or injury to persons or property in any manner directly or indirectly connected with or growing out of the Gas Supply Agreement, the Project, and/or the transportation of Gas from the Delivery Point, unless such loss, damage or injury is the result of bad faith, gross negligence, or reckless or willful misconduct of KMGGA or its employees acting within the course and scope of their employment; provided, however, the indemnification by the Project Participants shall be limited to each Project Participant's allocable share.

8.2 To the fullest extent permitted by law, neither Party shall be liable to the other for punitive, indirect, exemplary, consequential, or incidental damages arising in connection with this Agreement.

8.3 Nothing herein shall be construed as a waiver by either Party of the sovereign tort immunity granted to the Parties under the laws of the State.

ARTICLE IX

Default and Remedies

9.1 An occurrence of any of the following events or conditions shall constitute an "Event of Default":

(a) Failure of the City to make any payment when due under this Agreement (a "Payment Default"); or

(b) Assignment of this Agreement by City other than as permitted pursuant to *Article Twelve* or any other action or omission by City that would cause KMGGA to be in breach of any provision of the Gas Supply Agreement; or

(c) The failure of a Party to perform or abide by any other material obligation under this Agreement within 60 days of receipt of written notice of non-performance; provided, however, that if such default cannot be cured within such 60-day period, no Event of Default shall occur for so long as the non-performing Party is diligently pursuing a cure, and such non-performance is curable; or

(d) The commencement, with respect to a Party, by such Party or by another person or entity of a bankruptcy, reorganization, moratorium, liquidation or similar insolvency proceeding or other relief under any bankruptcy or insolvency law affecting creditors' rights or a petition is presented or instituted for its winding-up or liquidation.

9.2 If a Party fails to perform or breaches any of its material obligations under this Agreement, then the non-defaulting Party shall be entitled to exercise all remedies available to it at law or in equity (except as limited by *Section 9.3* of this Agreement). The Parties acknowledge and agree that monetary damages may not be an adequate remedy at law for the failure of a Party to perform certain material obligations under this Agreement, and under such circumstances, the non-defaulting Party shall have the right to specific performance by the defaulting Party of such obligations under this Agreement.

9.3 In response to any Event of Default by KMGGA, City shall not have the right to terminate this Agreement.

9.4 Notwithstanding any provision to the contrary contained in this Agreement, the Parties acknowledge and agree that KMGGA shall not be liable for monetary damages to City arising from or in connection with any reports, notices, certificates, documents, information or data of any kind or nature (whether or not prepared by or on behalf of KMGGA) provided to City pursuant to or in connection with this Agreement.

ARTICLE X

Dispute Resolution

10.1 If a dispute arises between the Parties, then the aggrieved Party may provide written notice thereof to the other Party, including a detailed description of the subject matter of the dispute.

10.2 Representatives of the Parties shall in good faith attempt to resolve such dispute by informal negotiations within ten (10) Business Days from the date of receipt of a dispute notice under *Section 10.1* of this Agreement.

10.3 If the dispute is not resolved within ten (10) Business Days following receipt of the dispute notice or such later date as the Parties may mutually agree, then each Party shall promptly designate its most senior executive responsible for the subject matter of the dispute who shall have authority to resolve the dispute. The senior executives shall obtain such information as may be necessary to inform themselves of the substance and particulars of the dispute and shall meet within twenty (20) Business Days, at a time and place mutually acceptable to the senior executives.

10.4 If the senior executives are unable to resolve the dispute within twenty (20) Business Days of their first meeting or such later date as the senior executives may mutually agree, then either party may bring any suit, action, or proceeding at law or in equity, including without limitation mandamus, injunction, and action for specific performance, as such party determines may be necessary or appropriate to enforce any covenant, agreement, or obligation in this Agreement against the other party.

10.5 Notwithstanding any other provision of this Agreement to the contrary, the Parties may agree to mediate or arbitrate any dispute that arises under this Agreement.

ARTICLE XI

Covenants, Representations and Warranties

11.1 **KMGA's Representations.** KMGA hereby makes the following representations, warranties and covenants to City as of the Effective Date and through the end of the Term:

(a) KMGA is a governmental entity duly organized pursuant to an interlocal cooperation agreement, validly existing and in good standing under the laws of the State, and has the legal power to enter into this Agreement and carry out the transactions contemplated hereby and perform and carry out all covenants and obligations on its part to be performed under and pursuant to this Agreement.

(b) The execution, delivery and performance by KMGA of this Agreement have been duly authorized by all necessary action.

(c) This Agreement constitutes the legal, valid and binding obligation of KMGA, enforceable in accordance with its terms.

(d) There is no pending, or to the knowledge of KMGA, threatened action or proceeding affecting KMGA which purports to affect the legality, validity or enforceability of this Agreement as in effect on the date hereof. Notwithstanding the foregoing, KMGA's sole continuing covenant with respect to this **Section 11.1(d)** shall be to take all necessary and reasonable actions to defend the enforceability and validity of this Agreement and aggressively defend any lawsuit involving or related to this Agreement.

11.2 **City's Representations.** City hereby makes the following representations, warranties and covenants to KMGA as of the Effective Date and through the end of the Term:

(a) City is a municipal corporation of the State, and has the legal power to enter into this Agreement and carry out the transactions contemplated hereby and perform and carry out all covenants and obligations on its part to be performed under and pursuant to this Agreement.

(b) The execution, delivery and performance by City of this Agreement have been duly authorized by all necessary action.

(c) This Agreement constitutes the legal, valid and binding obligation of City, enforceable in accordance with its terms.

(d) There is no pending, or to the knowledge of City, threatened action or proceeding affecting City before any governmental authority which purports to affect the legality, validity or enforceability of this Agreement as in effect on the date hereof. Notwithstanding the foregoing, City's sole continuing covenant with respect to this **Section 11.2(d)** shall be to take all necessary and reasonable actions to defend the enforceability and validity of this Agreement and aggressively defend any lawsuit involving or related to this Agreement.

(e) City is and shall remain throughout the term of this Agreement a member of KMGGA.

(f) City will establish, maintain and collect such rates, fees and charges for the distribution of Gas from its System so as to provide revenues at least sufficient to enable City to make all payments required to be made by it under this Agreement and any other agreements with respect to its System.

(g) The obligations of City to make payments under this Agreement shall be limited to the obligation to make payments from revenues of its System and available System reserves. All payments made by City pursuant to this Agreement shall constitute operation and maintenance expenses of its System. The City shall not be obligated to levy any taxes for the purpose of paying any amount due under this Agreement. The City shall not issue any evidence of indebtedness with a lien on its System revenues that is prior to the payment of operating and maintenance expenses.

(h) The City shall provide such financial information and operating data as KMGGA is required to obtain from City under the Gas Supply Agreement or any rules or regulations applicable to KMGGA related to the Project.

(i) The City agrees to resell or otherwise use Gas purchased under this Agreement (i) for a "qualifying use" as defined in U.S. Treas. Reg. § 1.148-1(e)(2)(iii), and (ii) in a manner that will not result in any private business use of that Gas within the meaning of Section 141 of the Code. The City agrees to execute upon request such certificates with respect to the gas purchases as required by KMGGA or MMGA.

ARTICLE XII

Miscellaneous

12.1 *Amendments and Waivers.*

(a) Except as expressly provided herein, this Agreement may not be amended, supplemented or otherwise modified, other than pursuant to an instrument or instruments in writing executed by the Parties.

(b) No waiver by either Party of any one or more defaults by the other Party in the performance of any of the provisions of this Agreement shall be construed as a waiver of any other default or defaults whether of a like kind or different nature. Any delay, less than any applicable statutory period of limitations, in asserting or enforcing any rights under this Agreement shall not be deemed a waiver of such rights. Failure of either Party to enforce any provisions hereof shall not be construed to waive such provision, or to affect the validity of this Agreement or any part thereof, or the right of the Party thereafter to enforce each and every provision thereof.

12.2 **Assignment.** This Agreement shall be binding upon and inure to the benefit of the successors, assigns and legal representatives of the parties hereto. Neither party may assign its rights nor delegate its obligations under this Agreement without the prior written consent of the other party.

12.3 **Notices.** Unless otherwise expressly provided for in this Agreement, all communications and notices to a Party in connection with this Agreement shall be in writing, and any such notice shall become effective (a) upon personal delivery thereof, including by overnight mail or next Business Day or courier service, (b) in the case of notice by United States mail, certified or registered, postage prepaid, return receipt requested, upon receipt thereof, or (c) in the case of email, upon transmission thereof, provided that in addition to such transmission a confirmation copy of the notice is also provided by either of the methods set forth in clause (a) or (b) above. All notices provided by the means described in clauses (a), (b), or (c) above shall be addressed as follows, or to such other address as any Party may designate by written notice to the other Parties.

To KMGGA: Kansas Municipal Gas Agency
6300 West 95th Street
Overland Park, KS 66212-1431
Attention: General Manager
E-mail: mahlberg@kmea.com
Phone: 913-660-0234

To the City: _____

12.4 **Confidentiality.** The parties agree that they and each of their agents, employees, contractors and other parties acquiring information about the Project or the Project Gas prices, quantity or quality shall hold such information in confidence, except to the extent such information must be disclosed to a third party as required by law or to effect delivery of Gas. The Parties recognize that any confidentiality restrictions hereunder must be consistent with applicable Kansas laws on open records and open meetings.

12.5 **Books and Records.** Each party shall have the right at all reasonable times to examine the books and records of the other party to the extent necessary to verify the accuracy of any statement, charge, computation or demand made under or pursuant to this Agreement.

12.6 **Governing Law.** This Agreement shall be governed exclusively by and construed in accordance with the applicable laws of the State of Kansas.

12.7 **Jury Trial.** EACH OF THE PARTIES WAIVES TO THE FULLEST EXTENT PERMITTED BY LAW ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING TO ENFORCE OR DEFEND ANY RIGHTS UNDER THIS AGREEMENT OR UNDER ANY AMENDMENT, INSTRUMENT, DOCUMENT OR AGREEMENT DELIVERED OR WHICH MAY IN THE FUTURE BE DELIVERED IN CONNECTION WITH THIS AGREEMENT AND AGREES THAT ANY SUCH ACTION OR PROCEEDING SHALL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY.

12.8 **Integration.** This Agreement contains the entire Agreement between the parties hereto, and no waiver, modification or other changes shall be effective unless in writing and executed by the parties.

12.9 **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be an original and all of which together shall constitute one and the same instrument.

12.10 **Severability.** Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable Law; but if any provision of this Agreement shall be prohibited by or deemed invalid under any applicable Law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the day and year first written above.

KANSAS MUNICIPAL GAS AGENCY

By: _____
General Manager

THE CITY OF LYONS, KANSAS

By: _____
Mayor

(SEAL)

Attest:

By: _____
City Clerk

EXHIBIT A

DELIVERY POINTS

City of Lyons, Kansas: City Gate

EXHIBIT B

GAS VOLUMES

Lyons, Kansas	
Delivery Month	Daily Volume (MMBtu)
Apr	95
May	42
Jun	31
Jul	29
Aug	32
Sep	34
Oct	69
Nov	160
Dec	274
Jan	286
Feb	221
Mar	137

EXHIBIT C

GAS SUPPLY AGREEMENT

NATURAL GAS SUPPLY AGREEMENT

BY AND BETWEEN

MINNESOTA MUNICIPAL GAS AGENCY

AND

KANSAS MUNICIPAL GAS AGENCY

DATED AS OF [_____], 2019

TABLE OF CONTENTS

<u>HEADING</u>	<u>PAGE</u>
PREAMBLE	1
RECITALS	1
ARTICLE I DEFINITIONS AND CONSTRUCTION	3
1.1 Construction of the Agreement.....	3
1.2 Definitions.....	3
ARTICLE II SERVICE OBLIGATIONS	13
2.1 Gas Supply Service.....	13
2.2 Nature of the Project	14
ARTICLE III RECEIPT AND DELIVERY POINTS.....	14
3.1 Delivery Points.....	14
3.2 Transfer of Title	15
ARTICLE IV PRICING OF GAS SUPPLY SERVICES	15
4.1 Charge Per MMBtu Delivered	15
4.2 Index Price	15
4.3 Project Administration Fee	16
4.4 Index Premium.....	16
4.5 Assistance with Sales to Third Parties	17
4.6 Annual Refunds	17
ARTICLE V TERM; REMARKETING ELECTION.....	18
5.1 Term	18
5.2 Early Termination Upon Termination of Prepaid Gas Agreement or Default by Gas Purchaser.....	18
5.3 Early Termination following a Remarketing Election.....	19

5.4	Winding Up Arrangements.....	21
ARTICLE VI FAILURE TO PERFORM.....		22
6.1	Cost of Replacement Gas.....	22
6.2	Obligation to Take the Daily Quantity.....	22
6.3	No Consequential or Special Damages.....	23
6.4	Imbalances	23
ARTICLE VII RESPONSIBILITY FOR TRANSPORTATION		24
ARTICLE VIII DELIVERY REQUIREMENTS.....		24
8.1	Specifications	24
8.2	Pressure	24
8.3	Measurement.....	25
ARTICLE IX TITLE AND RISK OF LOSS.....		25
ARTICLE X ROYALTIES AND TAXES		26
10.1	Royalties and Other Charges	26
10.2	Taxes	26
ARTICLE XI BILLING AND PAYMENT		26
11.1	Timing.....	26
11.2	Late Payment	27
11.3	Audit Rights	28
11.4	Operating Expense of Gas Purchaser.....	28
11.5	Financial Responsibility.....	29
11.6	No Set-Off.....	30
ARTICLE XII LAWS AND REGULATIONS		30
ARTICLE XIII FORCE MAJEURE		31
13.1	Suspension of Obligations	31
13.2	Force Majeure Defined	31

13.3	Force Majeure Exclusions.....	32
13.4	Settlement of Labor Disputes.....	32
13.5	Force Majeure Procedure	32
ARTICLE XIV DEFAULT		33
14.1	Failure by Gas Purchaser to Make Payments Due.....	33
14.2	Enforcement and Right to Discontinue Service.....	33
14.3	Reinstatement of Service	34
14.4	Other Default by Gas Purchaser	34
14.5	Default by MMGA.....	35
14.6	Arbitration and Mediation.....	35
14.7	Third Party Beneficiaries	35
ARTICLE XV PROJECT MANAGEMENT AND ADMINISTRATION.....		36
ARTICLE XVI WAIVERS		36
ARTICLE XVII SUCCESSION AND ASSIGNMENT		37
ARTICLE XVIII NOTICES AND PAYMENTS.....		37
ARTICLE XIX CHOICE OF LAW		39
ARTICLE XX MODIFICATIONS		39
ARTICLE XXI COMPUTATIONS		39
ARTICLE XXII REPRESENTATIONS AND WARRANTIES		39
22.1	Representations and Warranties of MMGA	39
22.2	Representations and Warranties of Gas Purchaser	40
ARTICLE XXIII CERTAIN OBLIGATIONS WITH RESPECT TO THE BONDS		42
23.1	Tax-Exempt Status of Bonds	42
23.2	Continuing Disclosure	42
ARTICLE XXIV EXCHANGES		43
24.1	General Rule	43

24.2	Description of Exchange Agreement	43
24.3	Exchange Transactions Through a Third Party	44
ARTICLE XXV MISCELLANEOUS.....		44
25.1	Entirety of Agreement.....	44
25.2	Headings	44
25.3	Severability	45
25.4	Limited Liability	45
25.5	Counterparts.....	45
EXHIBIT A	PRIMARY DELIVERY POINT	
EXHIBIT B	DAILY CONTRACT QUANTITIES	
EXHIBIT C	PROJECT PARTICIPANTS AND THEIR DAILY CONTRACT QUANTITIES	
EXHIBIT D	FEDERAL TAX CERTIFICATE	
EXHIBIT E	FORM OF OPINION OF COUNSEL TO MMGA	
EXHIBIT F	FORM OF OPINION OF COUNSEL TO GAS PURCHASER	
EXHIBIT G	FORM OF REMARKETING ELECTION NOTICE	
EXHIBIT H	FORM OF CLOSING CERTIFICATE	

NATURAL GAS SUPPLY AGREEMENT

PREAMBLE

This Natural Gas Supply Agreement, dated as of _____, 2019 (this “Agreement”), is made and entered into by and between the Kansas Municipal Gas Agency, a joint action agency created under the laws of the State of Kansas (“Gas Purchaser”), and the Minnesota Municipal Gas Agency, a municipal gas agency and a municipal corporation and political subdivision organized under the laws of the State of Minnesota (“MMGA”). Gas Purchaser and MMGA are sometimes hereinafter referred to in this Agreement collectively as the “Parties” or individually as a “Party”.

RECITALS

WHEREAS, MMGA is a municipal gas agency and a municipal corporation and political subdivision of the State of Minnesota organized under Minnesota Statutes, Chapter 453A, as amended (the “Act”); and

WHEREAS, Gas Purchaser is a joint action agency created by an interlocal cooperation agreement under the laws of the State of Kansas; and

WHEREAS, MMGA has planned and developed a project to acquire long-term Gas supplies from Royal Bank of Canada (the “Gas Supplier”), pursuant to a Prepaid Natural Gas Purchase and Sale Agreement, dated [_____], 2019 (the “Prepaid Gas Agreement”), to meet a portion of the Gas supply requirements of the Gas Purchaser, its members, and other public gas distribution systems and joint action agencies that elect to participate (together, the “Project Participants”) through a gas prepayment project (the “Prepaid Project”); and

WHEREAS, Gas Purchaser has elected to enter into this Agreement, and the other Project Participants have elected to enter into agreements containing substantially the same terms as this Agreement, with MMGA for the purchase of Gas supplies from the Prepaid Project; and

WHEREAS, Gas Purchaser is a joint action agency consisting of public agencies that own and operate gas transmission and distribution systems within their service areas or own or operate an electric system that uses gas in the generation of electricity; and

WHEREAS, subject to the terms and conditions set forth in this Agreement, Gas Purchaser desires to purchase a portion of its Gas supply requirements from MMGA under this Agreement and MMGA desires to sell to Gas Purchaser such supplies of Gas; and

WHEREAS, as a condition precedent to the effectiveness of the Parties' obligations under this Agreement, MMGA shall have entered into the Prepaid Gas Agreement and shall have issued the Series 2019 Bonds (as hereinafter defined).

NOW, THEREFORE, in consideration of the premises and mutual covenants set forth in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, MMGA and Gas Purchaser agree as follows.

(a)

DEFINITIONS AND CONSTRUCTION

- a. Construction of the Agreement. The Preamble and the Recitals set forth above are incorporated into this Agreement for all purposes. References to Articles, Sections, and Exhibits throughout this Agreement are references to the corresponding Articles, Sections, and Exhibits of this Agreement unless otherwise specified. All Exhibits are incorporated into this Agreement for all purposes. References to the singular are intended to include the plural and vice versa. The word

“including” and related forms thereof is intended to be interpreted inclusively, whether or not the phrase “but not limited to” follows such word or words.

b. Definitions. Unless another definition is expressly stated in this Agreement, the following terms and abbreviations, when used in this Agreement, are intended to and shall have the following meanings:

- i. “Act” is defined in the Recitals.
- ii. “Agreement” is defined in the Preamble.
- iii. “Alternate Delivery Point” has the meaning specified in Section 3.1.
- iv. “Annual Delivery Period” means each one-year period during the Delivery Period, beginning with the Month of [_____] and ending with the Month of [_____] , with the first such period commencing with the Month of [_____] , 2019.
- v. “Annual Reconciliation Date” means the 15th day of the Month following the end of each Annual Delivery Period.
- vi. “Annualized Daily Quantity” or “ADQ” means for any Annual Delivery Period, the sum of the Daily Contract Quantities divided by the number of days in such Annual Delivery Period.
- vii. “Available Discount” means, for each Delivery Month of a Reset Period, the amount, expressed in cents per MMBtu (rounded down to the nearest one-half cent), determined by the Calculation Agent pursuant to the Re-Pricing Agreement.
- viii. “Board of Directors” means the Board of Directors of MMGA.
- ix. “Bond Counsel” has the meaning set forth in the Indenture.
- x. “Bond Resolution” means the Resolution adopted by the Board of Directors on [_____] , 2019 authorizing MMGA’s issuance of the Bonds.

xi. “Bonds” means the Series 2019 Bonds, including one or more sub-series, and any Refunding Bonds issued by MMGA under the Indenture.

xii. “Btu” means one British thermal unit, the amount of heat required to raise the temperature of one pound of water one degree Fahrenheit at 60 degrees Fahrenheit, and is the International Btu. The reporting basis for Btu is 14.73 pounds per square inch absolute and 60 degrees Fahrenheit; provided, however, that the definition of Btu as determined by the operator of the relevant Delivery Point shall be deemed conclusive in accordance with Article VI of the Prepaid Gas Agreement; and provided further that in the event of an inconsistency between this definition of “Btu” and the definition of “Btu” in the Prepaid Gas Agreement, the definition in the Prepaid Gas Agreement shall apply.

xiii. “Business Day” means (i) with respect to payments and general notices required to be given under this Agreement, any day other than (a) a Saturday or Sunday, (b) a Federal Reserve Bank holiday, (c) any day on which commercial banks located in either New York, New York, or the State of Minnesota are required or authorized by law or other governmental action to close, or (d) any other day excluded pursuant to the Indenture, and (ii) with respect to Gas deliveries and notices with respect thereto, any day.

xiv. “Calculation Agent” means [as defined under Section XX of the Re-Pricing Agreement].

xv. “Central Prevailing Time” or “CPT” means Central Daylight Savings Time when such time is applicable and otherwise means Central Standard Time.

xvi. “Cf” means one cubic foot of Gas, defined as the amount of Gas required to fill a cubic foot of space when the Gas is at an absolute pressure of 14.73 pounds per square inch and a temperature of 60 degrees Fahrenheit.

- xvii. “Code” means the Internal Revenue Code of 1986, as amended.
- xviii. “Commercially Reasonable” or “Commercially Reasonable Efforts” means, with respect to any decision, purchase, sale or other action required to be made, attempted or taken by a Party under this Agreement, such decision or efforts as a reasonably prudent Person would make or undertake, as the case may be, for the protection of its own interest, or in the case of action taken on behalf of another Party, for the protection of the other Party’s interest, under the conditions affecting such decision, purchase, sale or other action. For the avoidance of doubt, the reasonableness of any action taken by a Party under this Agreement shall be determined at the time of such action, taking into full account the facts, circumstances and competitive environment surrounding such action.
- xix. “Commodity Swap” has the meaning set forth in the Indenture.
- xx. “Commodity Swap Counterparty” has the meaning set forth in the Indenture.
- xxi. “Contract Price” means the price per MMBtu to be paid by Gas Purchaser for Gas delivered to it in accordance with this Agreement, as set forth in Section 4.1.
- xxii. “Daily Contract Quantity” or “DCQ” means, for each Month, the quantity of Gas in MMBtu that shall be delivered by MMGA to Gas Purchaser and received by Gas Purchaser from MMGA each Gas Day during such Month. The Daily Contract Quantity for each Month of each year during the Term is set forth in Exhibit B. The term “Daily Contract Quantities” is used when referring to the Daily Contract Quantity of more than one Project Participant. The Daily Contract Quantities of all of the Project Participants for each Month of the Term are set forth in Exhibit C.
- xxiii. “Delivery Month” means each Month in which delivery and receipt of the DCQ are to be made under this Agreement. When used in connection with (i) the Initial Reset Period, the

term “Delivery Month” shall mean the first Month of the Initial Reset Period and each Month thereafter to and including the Month prior to the last Month of such Reset Period, and (ii) any other Reset Period, the term “Delivery Month” shall mean the Month prior to the first Month of such Reset Period and each Month thereafter to and including the Month prior to the last Month of such Reset Period.

xxiv. “Delivery Period” means the period from and including the first Gas Day of [_____], 2019 to and including the last Gas Day of [_____], 2049, unless earlier terminated pursuant to Article 5.

xxv. “Delivery Points” is defined in Section 3.1.

xxvi. “Discount” means (i) for each Delivery Month of the Initial Reset Period, [33] cents per MMBtu, and (ii) for each Delivery Month of a Reset Period thereafter, the Available Discount for such Reset Period determined by the Calculation Agent pursuant to the Re-pricing Agreement. Following the establishment of a new Discount for a Reset Period, the Parties shall prepare a revised Exhibit A to this Agreement showing the amount of the Discount for such Reset Period. In all cases, the Discount includes both monthly and annual components and is stated before payment of the Project Administration Fee.

xxvii. “Event of Insolvency” means with respect to any Person the occurrence and continuance of one or more of the following events: (a) the issuance, under the laws of the state or other jurisdiction having primary regulatory authority over such Person or any successor provision thereto (or any other law under which such Person is at the time organized), of an order for relief, rehabilitation, reorganization, conservation, liquidation or dissolution of such Person that is not dismissed within 30 days; (b) the commencement by such Person of a voluntary case or other proceeding seeking an order for relief, liquidation, rehabilitation, conservation, reorganization or

dissolution with respect to itself or its debts under the laws of the state or other jurisdiction of incorporation or formation of such Person or any bankruptcy, insolvency or other similar law now or hereafter in effect including, without limitation, the appointment of a trustee, receiver, liquidator, custodian or other similar official for itself or any substantial part of its property; (c) the consent of such Person to any relief referred to in the preceding clause (b) in an involuntary case or other proceeding commenced against it; (d) the appointment of a trustee, receiver, liquidator, custodian or other similar official for such Person or any substantial part of its property by a government agency or authority having the jurisdiction to do so; (e) the making by such Person of an assignment for the benefit of creditors; (f) the failure of such Person generally to pay its debts or claims as they become due; (g) the Person shall admit in writing its inability to pay its debts when due; (h) the declaration of a moratorium with respect to the payment of the debts of such Person; or (i) the initiation by such Person of any action to authorize any of the foregoing.

xxviii. “FERC” means the Federal Energy Regulatory Commission and any successor thereto.

xxix. “FERC Gas Tariff” means the interstate pipeline tariff filed by a Transporter pursuant to FERC regulations and approved by FERC, as amended from time to time.

xxx. “Firm” means that performance by a Person may be interrupted without liability only to the extent that such performance is prevented by reasons of Force Majeure with respect to such Person asserting Force Majeure.

xxxi. “Force Majeure” is defined in Section 13.2.

xxxii. “Gas” means natural gas or any other mixture of hydrocarbon gases, or of hydrocarbons and liquids or liquefiables, or of hydrocarbons and non-combustible gases, consisting predominantly of methane.

xxxiii. “Gas Day” means a period of 24 consecutive hours beginning at 9:00 a.m. CPT on a calendar day and ending at 9:00 a.m. CPT on the next calendar day. The date of the Gas Day shall be the date at its beginning. If, through standardization of business practices in the industry or for any other reason, a Transporter, or the FERC with general applicability, changes the definition of Gas Day, such change shall apply to the definition of Gas Day in this Agreement with respect to such Transporter or generally, as applicable.

xxxiv. “Gas Purchaser” is defined in the Preamble.

xxxv. “Gas Purchaser’s Transporter” means the Transporter receiving Gas on Gas Purchaser’s behalf at the Delivery Point.

xxxvi. “Gas Supplier” means Royal Bank or any permitted assignee of Royal Bank pursuant to the Indenture and the Prepaid Gas Agreement.

xxxvii. “Government Agency” means the United States of America, any state or commonwealth thereof, any local jurisdiction, any political subdivision of any of the foregoing, and any other division of government of any of the foregoing, including but not limited to courts, administrative bodies, departments, commissions, boards, bureaus, agencies, municipalities, or instrumentalities.

xxxviii. “Imbalance Charges” means any fees, penalties, costs or other charges (in cash or in kind) assessed by a Transporter for failure to satisfy the Transporter’s balancing, scheduling and/or nomination requirements based on such Transporter’s FERC Gas Tariff.

xxxix. “Indenture” means the Trust Indenture, dated as of [_____], 2019, between MMGA and the Trustee, as it may be amended or supplemented from time to time.

xl. “Index Premium” means the applicable index premium(s) specified in [Exhibit A]

(a) “Index Price” means the Monthly market index price described in Section 4.2, and any substitute index price determined under Section 4.2.

(b) “Initial Reset Period” means the period from and including [_____], 2019 to and including [_____], 202_.

(c) “Mcf” means 1,000 cubic feet of Gas.

(d) “Minimum Discount” means [23] cents per MMBtu for each subsequent Reset Period. In all cases the Minimum Discount includes both monthly and annual components and is stated before payment of the Project Administration Fee.

(e) “MMBtu” means 1,000,000 Btu.

(f) “MMGA” is defined in the Preamble.

(g) “Month” means the period beginning at the beginning of the first Gas Day of a calendar month and ending at the beginning of the first Gas Day of the next calendar month. The term “Monthly” shall be construed accordingly.

(h) “Municipal Utility” means any Person that (i) is a governmental person as defined in the implementing regulations under Section 141 of the Code and any successor provision, (ii) owns or consists of members that own either or both a Gas distribution utility or an electric distribution utility (or provides Gas or electricity at wholesale to, or that is sold to entities that provide Gas or electricity at wholesale to, governmental persons that own such utilities), and (iii) agrees in writing to use the Gas purchased by it for a qualifying use as defined in U.S. Treas. Reg. § 1.148-1(e)(2)(iii).

(i) “Project Participants” means those municipal distribution systems and joint action agencies identified in Exhibit C.

(j) “Person” means any individual, public or private corporation, partnership, limited liability company, state, county, district, authority, municipality, political subdivision, instrumentality, partnership, association, firm, trust, estate, or any other entity or organization whatsoever.

(k) “Prepaid Gas Agreement” is defined in the Recitals.

(l) “Project” is defined in the Recitals.

(m) “Project Administration Fee” is defined in Section 4.3.

(n) “Primary Delivery Point” is defined in Section 3.1.

(o) “Prime Rate” means the interest rate published in *The Wall Street Journal* or comparable successor publication under the heading “Money Rates” and the subheading “Prime Rates” or comparable headings for the U.S. that, on the date of this Agreement, is described in *The Wall Street Journal* as “the base rate on corporate loans posted by at least 70% of the 10 largest U.S. banks”.

(p) “Project Management Committee” means a committee, composed of one representative appointed by each of the Project Participants, which shall meet in person or by conference call from time to time and shall monitor performance of the Project and make reports and recommendations to the Board of Directors as it deems appropriate.

(q) “Prolonged Remarketing Quantity” means, for each Delivery Month of the Remaining Term, the aggregate Daily Contract Quantities with respect to which a Remarketing Election has been made.

(r) “Refunding Bonds” means any Bonds issued by MMGA under and in accordance with the Indenture to refund the Series 2019 Bonds or any other Bonds then outstanding under the Indenture.

(s) “Remaining Term” means, as of any date, the period commencing on such date and ending on the last day of the last Delivery Month under the Prepaid Gas Agreement.

(t) “Remarketing Election” means an election by the Gas Purchaser pursuant to Section 5.3(b) to have its Daily Contract Quantities remarketed for the Remaining Term following the occurrence of a Remarketing Event.

(u) “Remarketing Election Deadline” means the last date and time by which the Gas Purchaser may provide a Remarketing Election Notice, which shall be 4:00 p.m. Central Prevailing Time on the 10th day of the Month (or, if such day is not a Business Day, the next succeeding Business Day) prior to the first Delivery Month of a Reset Period with respect to which a Remarketing Event has occurred.

(v) “Remarketing Election Notice” means written notice of a Remarketing Election provided by the Gas Purchaser to MMGA and the Gas Supplier pursuant to Section 5.3(b).

(w) “Remarketing Event” means receipt by the Gas Purchaser of notice from MMGA that the Available Discount for the next Reset Period is less than the Minimum Discount, as described in Section 5.3(a).

(x) “Re-Pricing Agreement” means the Re-pricing Agreement, dated as of [_____], 2019, between Royal Bank and MMGA, as amended or supplemented from time to time in accordance with its terms.

(y) “Re-Pricing Date” has the meaning set forth in the Re-Pricing Agreement.

(z) “Reset Period” means each five year period (or such longer or shorter period as may be agreed to by MMGA and Royal Bank of Canada pursuant to the Re-Pricing Agreement) commencing on the last day of the Initial Reset Period or the prior Reset Period, as the case may be, and ending on the fifth anniversary (or such later or earlier anniversary, as the case may be) of

such last day; *provided* that the final Reset Period shall be the period from the last day of the prior Reset Period to the Final Maturity Date (as defined in the Re-Pricing Agreement).

(aa) “Royal Bank” means Royal Bank of Canada, a Schedule 1 bank under the Bank Act (Canada).

(bb) “Series 2019 Bonds” means MMGA’s Gas Supply Revenue Bonds, Series 2019, Sub-series 2019A and 2019B, issued pursuant to the Indenture in order to finance MMGA’s purchase of Gas from the Gas Supplier under the Prepaid Gas Agreement and costs associated therewith.

(cc) “Transaction Documents” has the meaning set forth in the Indenture.

(dd) “Transporter” means all Gas gathering or pipeline companies transporting Gas for MMGA or Gas Purchaser upstream or downstream, respectively, of the Delivery Point.

(ee) “Trustee” means [_____], as trustee for the Bonds under the Indenture, including any successor or co-trustee thereunder.

(b)

SERVICE OBLIGATIONS

- a. Gas Supply Service. MMGA acknowledges and agrees that Gas Purchaser has a need to acquire Gas supplies to provide service to its member municipal Gas systems or joint action agencies for the ultimate provision of service to retail Gas consumers within their areas of service, and that a significant portion of such Gas supplies must be priced with reference to deregulated market prices in order to enable Gas Purchaser to ensure that it may provide sales service at competitive prices. MMGA understands that Gas Purchaser has asserted that its long-term viability as a joint action agency consisting of members that own Gas distribution systems providing an essential public service depends in part upon its ability to receive secure and reliable supplies of Gas on a long-

term basis in pre-determined quantities that are priced with reference to deregulated market prices in the form and structure of the Contract Price, and that Gas Purchaser has further asserted that such Contract Price must be at the lowest reasonable level consistent with the maintenance of secure and reliable service. Gas Purchaser has requested MMGA to provide deliveries of Gas to it consistent with these objectives, and Gas Purchaser understands and acknowledges that MMGA has undertaken the Project in part to meet Gas Purchaser's request and satisfy Gas Purchaser's asserted objectives and that the Project does so. Accordingly, for each Gas Day of each Delivery Month during the Delivery Period, MMGA shall tender for delivery to Gas Purchaser at the Delivery Point on a Firm basis, and Gas Purchaser shall purchase and receive from MMGA at the Delivery Point on a Firm basis, the applicable Daily Contract Quantity of Gas for such Delivery Month set forth in Exhibit B.

- b. Nature of the Project. Gas Purchaser acknowledges and agrees that MMGA will meet its obligations to provide Gas supply service to Gas Purchaser under this Agreement through its purchase of long-term Gas supplies on a prepaid basis from the Gas Supplier under the Prepaid Gas Agreement and that MMGA is financing its purchase of such long-term supplies through the issuance of the Series 2019 Bonds. Gas Purchaser acknowledges and agrees that MMGA will pledge its right, title, and interest under this Agreement and the revenues to be received under this Agreement (other than the revenues attributable to the Project Administration Fee described in Section 4.3) to secure MMGA's obligations under the Indenture.

(c)

RECEIPT AND DELIVERY POINTS

3.1 Delivery Points. All Gas delivered under this Agreement shall be delivered and received at the points of delivery specified in Exhibit A (the "Primary Delivery Points") or to any

other point of delivery, as may be amended from time to time (each an “Alternate Delivery Point”) that has been mutually agreed to by MMGA and Gas Purchaser and agreed to by the Gas Supplier pursuant to the Prepaid Gas Agreement (each Primary Delivery Point or Alternate Delivery Point, if specified, being a “Delivery Point”). [MMGA and Gas Purchaser agree that the Delivery Point for deliveries by Gas Purchaser to the City of Winfield, Kansas, a downstream purchaser of gas supplies from Gas Purchaser under a Gas Sales Contract with Gas Purchaser for a daily contract quantity of ____MMBtu, may be changed effective on the first day of a Month following not less than 60 days notice by gas Purchaser to MMGA to reflect a change in the Transporter.]

3.2 Transfer of Title. Title to the Gas shall pass from MMGA to Gas Purchaser at the Delivery Points and MMGA shall have responsibility for and assume all risk with respect to Gas prior to its delivery to Gas Purchaser at the Delivery Points and Gas Purchaser shall own such Gas and shall assume all risk of loss following its transfer at the Delivery Points.

(d)

PRICING OF GAS SUPPLY SERVICES

- a. Charge Per MMBtu Delivered. For each MMBtu of Gas delivered by MMGA to Gas Purchaser at the Delivery Point, Gas Purchaser shall pay MMGA the Contract Price for such Gas, which shall be the applicable Index Price less the Discount in effect for the applicable Delivery Month. Gas Purchaser shall not be required to pay for any Gas that is not tendered for delivery by MMGA.
- b. Index Price. The Index Price for any Month shall mean the price per MMBtu, stated in U.S. dollars, as published in the first issue for the Month (including corrections thereto in later issues) in which the event occurred that required calculation of the Index Price, of *Inside FERC’s Gas Market Report*, a publication of S&P Global Platts, a division of S&P Global, in the section

“Monthly Bidweek Spot Gas Prices – Platts Locations (\$/MMBtu)”, under the following headings (or any successor heading), under the column “Index”:

[]” and the line “[]” for [] MMBtu

[]” and the line “[]” for [] MMBtu

[]” and the line “[]” for [] MMBtu

[]” and the line “[]” for [] MMBtu

If *Inside FERC’s Gas Market Report* should cease to publish such first-of-the-month index prices or should cease to be published entirely, the Index Price shall be the price per MMBtu, stated in U.S. dollars, for Gas to be delivered at the Delivery Point during the applicable Month as set forth in an alternative index as determined under Section 6.08 of the Prepaid Gas Agreement. MMGA shall provide Gas Purchaser the opportunity to provide its recommendations and other input to MMGA for MMGA’s use in the process under Section 6.08 of the Prepaid Gas Agreement.

- c. Project Administration Fee. Gas Purchaser shall pay to MMGA, for each Delivery Month during the Term, a fee for the administration of the Project (the “Project Administration Fee”) equal to the product of (i) the Daily Contract Quantity for each Gas Day of the applicable Delivery Month, (ii) the number of days in such Delivery Month, and (iii) [four] cents (\$0.[04]). The Project Administration Fee for each Delivery Month shall be included in the invoice provided by MMGA to the Gas Purchaser for such Delivery Month pursuant to Section 11.1. If MMGA fails to deliver the Daily Contract Quantity on any Gas Day of the applicable Delivery Month, the Project Administrative Fee for such Delivery Month shall be equal to the product of: (i) the quantity of Gas delivered to Gas Purchaser, and (ii) [four] cents (\$0.[04]).
- d. Index Premium

i. In addition to the Contract Price payable by Gas Purchaser to MMGA as set forth in Section 4.1, Gas Purchaser shall pay the applicable Index Premium for the Delivery Points in effect for the Month of delivery. The Index Premium for each Delivery Point, which shall be established under the Prepaid Gas Agreement and flowed through from the Gas Supplier to MMGA and from MMGA to Gas Purchaser, is set forth in Exhibit A and shall remain in effect through the date shown in Exhibit A corresponding to each such Delivery Point. Thereafter, as to each Delivery Point, the Index Premium shall be subject to adjustment no more often than quarterly upon mutual agreement of MMGA and the Gas Supplier under the Prepaid Gas Agreement, and such Index Premium shall be for a minimum period of at least three months. MMGA shall notify Gas Purchaser at least 15 Days before the end of each Index Premium period to enable Gas Purchaser to participate in the process of establishing the new Index Premium, if any, prior to the beginning of the next Index Premium period. That process is described in Section 3.05 of the Prepaid Gas Agreement.

ii. Upon adjustment of the Index Premium as to any Delivery Point, MMGA and Gas Purchaser shall execute a revised Exhibit A reflecting the new Index Premium, if any.

e. Assistance with Sales to Third Parties. In the event Gas Purchaser does not require all or any portion of the DCQ for any Gas Day as a result of a loss of load on its system, as further defined in Section 6.2, Gas Purchaser shall nonetheless be obligated to pay MMGA the Contract Price for all such quantities as provided in Section 6.2. Nevertheless, upon reasonable notice from Gas Purchaser, MMGA shall use Commercially Reasonable Efforts to sell such quantities, to the extent permitted in the Prepaid Gas Agreement, or to arrange for the sale of such quantities by the Gas Supplier, (i) to another Project Participant, (ii) to another Municipal Utility, or (iii) if necessary, to another purchaser. If MMGA succeeds in making or arranging such a sale, it shall credit against

the amount owed by Gas Purchaser for such Gas the amount received by MMGA for such sale less all directly incurred costs or expenses, including but not limited to remarketing administrative charges paid to the Gas Supplier under the Prepaid Gas Agreement, but in no event shall the amount of such credit be more than the Contract Price, minus, in all cases, an MMGA remarketing administrative charge of five cents (\$0.05) per MMBtu, times the applicable quantities.

1.2 Annual Refunds. In addition to the Discount applicable to deliveries of the Daily Contract Quantity to Gas Purchaser under this Agreement, MMGA shall provide such annual refund to Gas Purchaser as may be available for distribution by MMGA pursuant to Section 5.15(b) of the Indenture. Such annual refund, if any, shall be paid by MMGA to Gas Purchaser and the other Project Participants as soon as practicable following each Annual Reconciliation Date after the release of funds for such purpose to MMGA under the terms of the Indenture. Gas Purchaser acknowledges and agrees that there is no assurance that any annual refund will be achieved, and that under the structure of the Project none is expected. In determining the amount of such annual refund, if any, to be paid to Gas Purchaser, MMGA may reserve such funds as may be required under the terms of the Transaction Documents or as it deems reasonably necessary and appropriate, including but not limited to amounts required to fund or maintain the Minimum Discount for any future Reset Period, to fund or maintain any rate stabilization or working capital reserve, and/or to reserve or account for unfunded liabilities and expenses, including future sinking fund or other principal amortization of the Bonds. All such refunds, if any, shall be made to Gas Purchaser in an amount reflecting the allocation of such refunds that the Project Management Committee recommends and the Board of Directors determines by calculating the ADQ of Gas Purchaser for the previous Annual Delivery Period and dividing Gas Purchaser's ADQ by the aggregate total ADQ for such Annual Delivery Period of all of the Project Participants.

(e)

TERM; REMARKETING ELECTION

- a. Term. This Agreement shall be effective as of the date first set forth above and shall be implemented as appropriate to effectuate purchases and sales of Gas under this Agreement for deliveries commencing on the first Gas Day of the Delivery Period. Unless earlier terminated in accordance with this Article 5, this Agreement shall remain in full force and effect for a term ending on the last Gas Day of the Delivery Period, subject in either case to the winding up arrangements set forth in Section 5.4 (the “Term”).
- b. Early Termination Upon Termination of Prepaid Gas Agreement or Default by Gas Purchaser. Notwithstanding Section 5.1, Gas Purchaser acknowledges and agrees that, in the event the Prepaid Gas Agreement terminates prior to the end of the Term, (i) this Agreement shall terminate on the date of early termination of the Prepaid Gas Agreement, and (ii) MMGA’s obligation to deliver Gas under this Agreement shall terminate on the same date on which the Gas Supplier’s obligation to deliver Gas to MMGA under the Prepaid Gas Agreement terminates. In addition, Gas Purchaser acknowledges and agrees that this Agreement may terminate prior to the end of the Term as a result of a default by Gas Purchaser under Article XIV, and MMGA acknowledges and agrees that this Agreement may terminate prior to the end of the Term as a result of a default by MMGA under Article XIV. The party electing to terminate under Article XIV shall provide notice to the Other Party of any early termination of this Agreement pursuant to this Section 5.2 and the date of such termination.
- c. Early Termination following a Remarketing Election.
- (a) Remarketing Event. For each Reset Period, MMGA shall provide to Gas Purchaser, at least ten (10) days prior to the applicable Remarketing Election Deadline (without regard to any

extension thereof as provided for in paragraph (b) of this Section 5.3), written notice setting forth the duration of such Reset Period and the estimated Available Discount for such Reset Period. In the event the estimated Available Discount for a Reset Period is not at least equal to the Minimum Discount (a “Remarketing Event”), such notice shall also state (i) that a Remarketing Event has occurred, (ii) the applicable Remarketing Election Deadline, and (iii) that Gas Purchaser, and each other Project Participant in the Prepaid Project, may (A) continue to purchase and receive all or a portion of its Daily Contract Quantity for each Gas Day of each Delivery Month during such Reset Period at a Contract Price that reflects the Available Discount (as finally determined as hereinafter described), or (B) elect that all or, in the event one or more, but not all, of Gas Purchaser’s downstream customers request Gas Purchaser to issue a Remarketing Election Notice with respect to all of their volumes in the Prepaid Project, a portion of such Daily Contract Quantity be remarketed for the Remaining Term (a “Remarketing Election”) by providing a Remarketing Election Notice prior to the Remarketing Election Deadline. The Parties explicitly recognize and agree that Gas Purchaser may elect a partial reduction in its Daily Contract Quantity to reflect the fact that one or more, but not all, of Gas Purchaser’s downstream customers may elect to have all of their daily contract quantities remarketed for the remaining term of their Gas Sales Contracts with Gas Purchaser.

(b) Remarketing Election. If Gas Purchaser elects to have all or part of its Daily Contract Quantity remarketed for the Remaining Term following the occurrence of a Remarketing Event, Gas Purchaser shall provide written notice of such Remarketing Election to MMGA, the Gas Supplier and the Trustee (its “Remarketing Election Notice”) not later than the applicable Remarketing Election Deadline. A Remarketing Election Notice shall be in substantially the form attached hereto as Exhibit G. In the event Gas Purchaser provides a Remarketing Election Notice

on or prior to the applicable Remarketing Election Deadline, the Delivery Period shall terminate as to the portion specified under the Remarketing Election Notice as of the end of the last Gas Day of the last Delivery Month of the Reset Period then in effect, and this Agreement shall terminate as of the last day of such Reset Period (subject only to the winding up arrangements described in Section 5.4). For the avoidance of doubt, remarketing fees of MMGA or Gas Supplier shall not be charged to Gas Purchaser with respect to any Daily Contract Quantity subject to a Remarketing Election made by Gas Purchaser under this Section 5.3, and the Project Administration Fee shall not apply to any such Daily Contract Quantity for any period after the Delivery Period terminates.

(c) Extension of Remarketing Election Deadline. If a Remarketing Event has occurred and Gas Purchaser has not made a Remarketing Election for the full Daily Contract Quantity, but one or more of the other gas purchasers in the Prepaid Project has made a Remarketing Election, the estimated Available Discount may be required to be recalculated pursuant to the Re-Pricing Agreement. In such case MMGA shall provide such new estimated Available Discount to Gas Purchaser promptly in writing, and the Remarketing Election Deadline shall be extended to the third (3rd) Business Day following the date of such notice.

(d) Final Determination of Available Discount. The Parties acknowledge and agree that the final Available Discount for any Reset Period following the Initial Reset Period will be determined on the applicable Re-Pricing Date, and that such Available Discount may differ from the estimate or estimates of such Available Discount provided to Gas Purchaser and the other Gas Purchasers prior to the applicable Remarketing Election Deadline. Accordingly, the Parties agree that:

(i) the Available Discount for any Reset Period will not be less than the Minimum Discount, unless (A) MMGA has provided notice of such Remarketing Event to

Gas Purchaser in accordance with paragraph (a) of this Section 5.3, and (B) Gas Purchaser has not provided a Remarketing Election Notice prior to the applicable Remarketing Election Deadline (as the same may be extended pursuant to paragraph (c) of this Section 5.3); and

(ii) if MMGA has provided notice of a Remarketing Event to Gas Purchaser the Final Available Discount shall not be less than the new estimated Available Discount provided under Section 5.3(c).

(iii) if Gas Purchaser has not made a Remarketing Election prior to the applicable Remarketing Election Deadline (as the same may be extended pursuant to paragraph (c) of this Section 5.3), Gas Purchaser shall be deemed to have elected to continue to purchase and receive its Daily Contract Quantity at a Contract Price that reflects the Available Discount as finally determined on the applicable Re-pricing Date, and this Agreement shall continue in full force and effect unless and until the earlier of the end of the Term and such earlier date on which this Agreement may be terminated pursuant to this Article V.

d. Winding Up Arrangements. The termination of this Agreement shall not relieve either Party of any obligation to pay amounts due under this Agreement for Gas delivered during periods prior to the termination date, including all interest, costs and indemnity obligations, or to effectuate all winding up arrangements, or to take any other actions as may be necessary to effectuate all of the terms of this Agreement. For the avoidance of doubt, Gas Purchaser shall not be responsible for the payment of more than the Contract Price for Gas deliveries received during periods prior to the termination date as a result of any winding up arrangements.

(f)

FAILURE TO PERFORM

- a. Cost of Replacement Gas. Except in cases of Force Majeure, for each MMBtu that MMGA is obligated to deliver to Gas Purchaser under this Agreement but fails to deliver, MMGA shall pay to Gas Purchaser an amount equal to the difference between the price per MMBtu which would have been applicable to the undelivered Gas under Article IV and any higher cost per MMBtu which Gas Purchaser actually incurred to obtain an equivalent quantity of replacement Gas, including but not limited to any incremental charges associated with the transportation and storage of such replacement Gas, exercising Commercially Reasonable Efforts to obtain such replacement Gas and alternate transportation at a Commercially Reasonable price. For purposes of this Section 6.1, replacement Gas includes without limitation Gas withdrawn from storage, liquefied natural gas, and peak shaving, and costs associated with obtaining such Gas include without limitation storage withdrawal and injection costs, storage fuel, and liquefaction and vaporization costs for stored liquefied natural gas; provided that, for purposes of the foregoing, the price of any such replacement Gas withdrawn from storage shall be the price applicable to such Gas at the time of withdrawal.
- b. Obligation to Take the Daily Quantity. Subject to the operation of Section 4.4 governing load loss, if on any Gas Day MMGA tenders the Daily Contract Quantity for delivery to Gas Purchaser and Gas Purchaser fails to take the Daily Contract Quantity, Gas Purchaser shall remain obligated to pay MMGA the Contract Price for the Daily Contract Quantity. If Gas Purchaser's failure to take is due to a loss of load on its system as established by Gas Purchaser in a manner satisfactory to MMGA, the provisions of Section 4.4 shall apply. If not, MMGA shall credit to Gas Purchaser's account any net revenues MMGA may receive from the ultimate sale of any such Gas to other

Municipal Utilities, up to the Contract Price, less a MMGA remarketing administrative charge of five cents (\$0.05) per MMBtu. Notwithstanding anything to the contrary contained herein, the Gas Purchaser shall continue to be obligated to pay the Project Administration Fee with respect to its Daily Contract Quantity.

- c. No Consequential or Special Damages. Neither Party shall be liable for consequential, incidental, special, or punitive damages or losses which may be suffered by the other as a result of the failure to deliver or take or pay for the required quantities of Gas under this Agreement.
- d. Imbalances. The Parties shall use Commercially Reasonable Efforts to avoid the imposition of any Imbalance Charges. If MMGA or Gas Purchaser receives an invoice from a Transporter that includes Imbalance Charges related to the obligations of either Party under this Agreement, 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 Gas Purchaser's takes of quantities of Gas greater than or less than the Daily Contract Quantity at the Delivery Point, then Gas Purchaser shall pay for such Imbalance Charges or reimburse MMGA for such Imbalance Charges paid by MMGA. If the Imbalance Charges were incurred as a result of MMGA's deliveries of quantities of Gas greater than or less than the Daily Contract Quantities at the Delivery Point, then MMGA shall pay for such Imbalance Charges or reimburse Gas Purchaser for such Imbalance Charges paid by Gas Purchaser.
- e. In Kind Resolution of Delivery or Receipt Failures. Notwithstanding the provisions of Sections 6.1 and 6.2, the Parties may mutually agree to make up any differences between the Daily Contract Quantity and the quantity delivered or taken on any Gas Day in kind, in which case neither cover damages nor any remarketing fees or costs shall apply, and the Contract Price and Project Administration Fee shall apply to the quantities delivered in kind.

(g)

RESPONSIBILITY FOR TRANSPORTATION

MMGA shall make all arrangements for transportation services required to effect the delivery of the Daily Contract Quantity to the Delivery Point. Gas Purchaser shall take all actions and be responsible for making all arrangements required to effect the transportation of the Daily Contract Quantity from the Delivery Point, including but not limited to all nominations, scheduling, balancing, and associated management and administrative functions. MMGA shall bear all costs and expenses of transportation prior to the delivery of the Daily Contract Quantity at the Delivery Point, except as provided in this Agreement. Gas Purchaser shall bear all costs of transportation from the Delivery Point.

(h)

DELIVERY REQUIREMENTS

- a. Specifications. All Gas delivered under this Agreement shall be merchantable and shall, upon delivery, conform to the quality specifications and heating value specified in Gas Purchaser's Transporter's FERC Gas Tariff.
- b. Pressure. All Gas sold by MMGA to Gas Purchaser under this Agreement shall be delivered to Gas Purchaser at the pressure maintained from time to time in Gas Purchaser's Transporter's facilities at the Delivery Point.
- c. Measurement. Gas sold under this Agreement shall be measured through Gas Purchaser's Transporter's existing measurement facilities at the Delivery Point in accordance with the provisions of such Transporter's FERC Gas Tariff. The unit of volume for measurement of Gas delivered under this Agreement shall be one Mcf or otherwise as consistent with Transporter's measurement at the Delivery Point. The sales unit of the Gas shall be one MMBtu, established by

converting Mcfs measured at the Delivery Point to MMBtus according to the Btu content determined by Transporter on a dry basis at the Delivery Point under Transporter's FERC Gas Tariff. With respect to any measurement of Gas delivered or received under this Agreement at any Delivery Point, the measurement of such Gas (including the definition of Btu used in making such measurement) by the operator of such Delivery Point shall be conclusive.

(i)

TITLE AND RISK OF LOSS

MMGA warrants the title to all Gas sold to Gas Purchaser under this Agreement. Transfer of custody and title to Gas sold under this Agreement shall pass to and vest in Gas Purchaser at the Delivery Point. As between the Parties, MMGA shall be deemed to be in exclusive control and possession of Gas delivered under this Agreement prior to the time of delivery to Gas Purchaser at the Delivery Point, and Gas Purchaser shall be deemed to be in exclusive control and possession of Gas delivered under this Agreement from the Delivery Point.

(j)

ROYALTIES AND TAXES

- a. Royalties and Other Charges. MMGA shall pay or cause to be paid any royalties or other sums due on the gathering, handling, and transportation of Gas sold under this Agreement prior to its delivery to Gas Purchaser at the Delivery Point.
- b. Taxes. The price for Gas sold to Gas Purchaser under this Agreement is inclusive of all production, severance, ad valorem, or similar taxes levied on the production or transportation of the Gas prior to its delivery to Gas Purchaser at the Delivery Point, and all such taxes shall be borne and paid exclusively by MMGA; provided, however, that if Gas Purchaser is required to remit such taxes to the collecting authority, Gas Purchaser shall do so and MMGA shall credit an amount equal to

the taxes so paid against payments otherwise due to MMGA under this Agreement. The price for Gas sold to Gas Purchaser under this Agreement does not include any federal, tribal, state, or local sales, use, consumption, utility, storage, greenhouse gas, carbon, license, ad valorem, franchise, or similar taxes imposed by any taxing authority on the sale to, or use by, Gas Purchaser of Gas sold under this Agreement, including without limitation ad valorem taxes on Gas held in storage by Gas Purchaser. Gas Purchaser shall be responsible for the payment of any such taxes and for completing and filing all required forms.

(k)

BILLING AND PAYMENT

11.1 Timing. Not later than ten (10) days following the end of each Delivery Month, MMGA shall provide a Monthly billing statement to Gas Purchaser, with a copy provided to the Trustee, of the amount due for Gas tendered for delivery under this Agreement, less any amounts owed to Gas Purchaser for the cost of replacement gas under Section 6.1. Such billing statement shall be provided to Gas Purchaser by hand delivery, first-class mail, express courier, electronic transmission, or facsimile transmission to the address or facsimile number set forth for Gas Purchaser in Article XVIII. If Gas Purchaser has not received a billing statement by the 15th day (or the immediately preceding Business Day if the 15th day is not a Business Day) following the end of a Delivery Month, Gas Purchaser, by no later than the close of business on such 15th day (or such immediately preceding Business Day if the 15th day is not a Business Day), shall notify MMGA by telephone and facsimile, with a copy to the Trustee, of such fact. If MMGA has not provided such billing statement to Gas Purchaser, with a copy to the Trustee, by the close of business on the 16th day following the end of a Delivery Month, the Trustee shall prepare such billing statement and provide it to Gas Purchaser, with a copy to MMGA. The due date for

payment by Gas Purchaser to MMGA shall be the 20th day of the Month following the Month of delivery. Such due date shall be applicable without regard to the date or source of a billing statement to Gas Purchaser. If the 20th day is not a Business Day, payment is due on the immediately preceding Business Day. Gas Purchaser shall make all such payments by ACH or wire transfer of immediately available funds to the account set forth for MMGA in Article XVIII.

11.2Late Payment. In the event Gas Purchaser fails to pay an amount when due hereunder, interest thereon shall accrue at a rate of interest per annum equal to the Prime Rate plus two percent (2%) from the due date until paid. If Gas Purchaser disputes the appropriateness of any charge or calculation in any billing statement, Gas Purchaser, within the time provided for payment, shall notify MMGA of the existence of and basis for such dispute and shall pay all amounts billed by MMGA, including any amounts in dispute. If it is ultimately determined that Gas Purchaser did not owe the disputed amount, by agreement or by a final order of a court of competent jurisdiction which is not subject to appeal or concerning which any right to appeal has been waived or which the Parties have irrevocably agreed not to appeal, MMGA shall pay Gas Purchaser that amount plus interest as calculated in accordance with this Section 11.2.

11.3Audit Rights. Each Party shall have the right, including on MMGA's part pursuant to a request by the Gas Supplier under the Prepaid Gas Agreement, at its own expense, to examine and audit at any reasonable time the books, records, measurement data, charts, and telemetry data of the other Party to the extent, but only to the extent, necessary to verify the accuracy of any statements or charges made under or pursuant to this Agreement. Any inaccuracy shall be corrected promptly when discovered, with interest applied in accordance with Section 11.2; provided, however, that neither Party shall be required to maintain books, records, measurement data, charts, or telemetry data for a period of more than two calendar years following the end of

the calendar year to which they are applicable. Neither Party shall have a right to question or contest any charge or credit if the matter is not called to the attention of the other Party in writing within 24 months of the date of the charge or credit in question.

11.4 Operating Expense of Gas Purchaser. Gas Purchaser's obligation to make the payments it is required to make under this Agreement is a several obligation and not a joint obligation under its contract with MMGA for the purchase of Gas under the Prepaid Project. Gas Purchaser agrees to make such payments solely from the revenues of its operations as a joint action agency engaged in the sale of gas, at wholesale to municipal gas distribution systems and joint action agencies (its "Gas system"), and as a charge against such revenues, as an operating expense of its Gas system, and a cost of purchased Gas; provided, however, that Gas Purchaser, in its discretion, may apply any legally available monies to the payment of amounts due under this Agreement. Gas Purchaser hereby covenants and agrees that it will establish, maintain, and collect rates and charges for the Gas services furnished by its Gas system so as to provide revenues sufficient, together with other available Gas system revenues, to enable Gas Purchaser to pay to MMGA all amounts payable under this Agreement and to pay all other amounts payable from the revenues of Gas Purchaser's Gas system, and to maintain any required reserves. Gas Purchaser further covenants and agrees that it shall not furnish or supply Gas services free of charge to any Person, firm, corporation, association, or other entity, public or private, except any such service free of charge that Gas Purchaser is supplying on the date of this Agreement, as has been specifically identified by Gas Purchaser to MMGA in writing prior to such date, and that it shall promptly enforce the payment of any and all material accounts owing to Gas Purchaser for the sale of Gas or the provision of transportation or other services to its customers. Gas Purchaser further covenants and agrees that in any future bond issue undertaken by Gas Purchaser, or in connection

with any other financing or financial transaction, Gas Purchaser shall not pledge or encumber the revenues of its Gas system through a gross revenue pledge or in any other way which creates a prior or superior obligation to its obligation to make payments under this Agreement. Gas Purchaser further covenants that it shall not take any action to institute an Event of Insolvency with respect to Gas Purchaser.

11.5 Financial Responsibility. When reasonable grounds for insecurity of payments due under this Agreement arise, MMGA may demand, and Gas Purchaser shall provide within five Business Days if demanded, adequate assurance of performance. When reasonable grounds for insecurity of performance or payments due under this Agreement arise, Gas Purchaser may demand, and MMGA shall provide within five (5) Business Days if demanded, adequate assurance of performance. Reasonable grounds include but are not limited to persistent delivery failures, the occurrence of an Event of Insolvency with respect to Gas Purchaser or the downgrading of Gas Purchaser's credit rating, if any, by Standard & Poor's Ratings Service, Moody's Investors Service, Inc., or Fitch Ratings to a level below investment grade, and/or such facts and circumstances as would constitute reasonable grounds for insecurity under the Minnesota Uniform Commercial Code. Adequate assurance shall mean sufficient security in the form and for a term reasonably specified by the requesting Party, including but not limited to a standby irrevocable letter of credit, a prepayment, a deposit to an escrow account, or a performance bond or guaranty by a creditworthy entity. The Parties agree that in the event MMGA or Gas Purchaser, as the case may be, fails to provide such adequate assurance as demanded, the Party requesting assurances shall have the right to suspend performance under this Agreement on three days written notice and shall not be obligated to restore performance until the first day of the Month after such demand has been satisfied; provided, however, that MMGA shall not be obligated to restore such deliveries

notwithstanding the satisfaction of such demand until the completion of the term of deliveries to any replacement sales customer to which MMGA has remarketed the Gas, and Gas Purchaser shall not be required to restore its obligation to receive Gas notwithstanding the satisfaction of such demand until the completion of the term of any agreement entered into by Gas Purchaser for Gas deliveries to replace the suspended Daily Gas Quantity.

11.6 No Set-Off. Except for offsets for amounts owed by MMGA pursuant to Section 6.1, payment by Gas Purchaser for all amounts set forth in a billing statement provided to Gas Purchaser pursuant to Section 11.1 shall be made without set-off or counterclaim of any kind.

(l)

LAWS AND REGULATIONS

This Agreement is subject to all valid laws, orders, rules, regulations, or other governmental actions of any duly constituted federal, state, or local governmental authority, to the extent such laws, orders, rules, and regulations are applicable and effective from time to time; provided, however, that no such action by Gas Purchaser's or MMGA's governing body may affect that Party's obligations and rights under this Agreement.

(m)

FORCE MAJEURE

- a. Suspension of Obligations. Except with regard to a Party's obligation to make payments under this Agreement, neither Party shall be liable to the other for failure to perform an obligation to the extent such failure was caused by Force Majeure, as defined in Section 13.2. In the event of a partial Force Majeure at the Delivery Point, MMGA agrees to curtail deliveries to Gas Purchaser pro rata based upon the respective Daily Contract Quantities of the Project Participants at the Delivery Point.

- b. Force Majeure Defined. The term “Force Majeure” as employed herein means any cause not reasonably within the control of the Party claiming suspension, as further defined in this Section 13.2. The term “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 or tornadoes, which result in evacuation of the affected area, floods, washouts, explosions, breakage of 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 transportation and/or storage by Transporters (provided that if the affected Party is using interruptible or secondary Firm transportation, only if primary, in-path, Firm transportation is also curtailed by the same event, or, if the relevant Transporter does not curtail based on path, if primary Firm transportation is also curtailed); (iv) acts of others such as strikes, lockouts or other industrial disturbances, riots, sabotage, insurrections, wars or acts of terror; (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 Government Agency having jurisdiction; and (vi) any invocation of Force Majeure by the Gas Supplier under the Prepaid Gas Agreement. MMGA and Gas Purchaser shall make Commercially Reasonable Efforts to avoid the adverse impacts of a Force Majeure event or occurrence and to resolve the event or occurrence once it has occurred in order to resume performance.
- c. Force Majeure Exclusions. Neither Party shall be entitled to the benefits of a claim of Force Majeure to the extent performance is affected by any or all of the following circumstances: (i) the Party claiming excuse failed to remedy the condition and to resume the performance of its obligations with reasonable dispatch; (ii) economic hardship, to include, without limitation,

MMGA's ability to sell Gas at a higher or more advantageous price, Gas Purchaser's ability to purchase Gas at a lower or more advantageous price, or a Government Agency disallowing, in whole or in part, the pass-through of costs resulting from this Agreement; or (iii) the loss of Gas Purchaser's markets or Gas Purchaser's inability to resell Gas purchased under this Agreement, except, in either case, for a reason as provided in Section 13.2. Gas Purchaser shall not be entitled to the benefit of the provisions of Force Majeure to the extent performance is adversely affected by any action taken by Gas Purchaser in its governmental capacity. The Party claiming Force Majeure shall not be excused from its responsibility for Imbalance Charges.

- d. Settlement of Labor Disputes. Notwithstanding anything to the contrary in this Agreement, 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.
- e. Force Majeure Procedure. The Party whose performance is prevented by Force Majeure must provide notice to the other Party as soon as practicable. 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 Force Majeure, 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.

(n)

DEFAULT

- a. Failure by Gas Purchaser to Make Payments Due. Failure by Gas Purchaser to make to MMGA when due any of the payments for which provision is made in this Agreement shall constitute a default on the part of Gas Purchaser.

14.2Enforcement and Right to Discontinue Service. In the event of any default under Section 14.1, MMGA shall have the right to recover from Gas Purchaser any amount in default. In the enforcement of any such right of recovery, MMGA may bring any suit, action, or proceeding at law or in equity, including without limitation mandamus, injunction and action for specific performance, as MMGA determines may be necessary or appropriate to enforce any covenant, agreement, or obligation to make any payment for which provision is made in this Agreement, and MMGA in its sole discretion may, upon three days written notice to Gas Purchaser, cease and discontinue providing delivery of all or any portion of the Gas otherwise to be delivered to Gas Purchaser at the Delivery Point under this Agreement. In the event MMGA takes all or any of the actions authorized by this Section 14.2, Gas Purchaser shall remain fully liable for payment of all amounts in default and shall not be relieved of any of its payment obligations under this Agreement for Gas delivered, but shall have no obligation to pay for any Gas MMGA elects to not deliver.

14.3Reinstatement of Service. If MMGA exercises its right to discontinue providing Gas deliveries to Gas Purchaser under Section 14.2, such Gas deliveries may only be reinstated, at a time to be determined by MMGA, upon (i) payment in full by Gas Purchaser of all amounts then due and payable under this Agreement and (ii) payment in advance by Gas Purchaser at the beginning of each Month of amounts estimated by MMGA to be due to MMGA for the future delivery of Gas under this Agreement for such Month. MMGA may continue to require payment

in advance after the reinstatement of service under this Agreement for such period of time as MMGA in its sole discretion may determine is appropriate.

14.4Other Default by Gas Purchaser. In the event of a failure by Gas Purchaser to establish, maintain, or collect rates or charges, pursuant to contracts with its municipal gas distribution system members, adequate to provide revenues sufficient to enable Gas Purchaser to pay all amounts due to MMGA under this Agreement, or in the event of a failure by Gas Purchaser to take, for the benefit of its municipal gas distribution system members, from MMGA its Gas supplies in accordance with the provisions of this Agreement, or in the event of any default by Gas Purchaser under any other covenant, agreement, or obligation in this Agreement, MMGA (without limiting the provisions of Section 14.6) may bring any suit, action, or proceeding at law or in equity, including without limitation mandamus, injunction, and action for specific performance, as MMGA determines may be necessary or appropriate to enforce any covenant, agreement, or obligation of Gas Purchaser in this Agreement. In addition to the foregoing remedies (and without limiting any other provisions of this Agreement), if Gas Purchaser fails to accept from MMGA, for the benefit of its municipal gas distribution system members, any of the Daily Contract Quantity tendered for delivery under this Agreement, MMGA shall have the right to sell such Gas to third parties, with the proceeds of such sales applied as described in Section 6.2.

14.5Default by MMGA. In the event of a default by MMGA under any covenant, agreement, or obligation in this Agreement, Gas Purchaser (without limiting the provisions of Section 14.6) may bring any suit, action, or proceeding at law or in equity, including without limitation mandamus, injunction, and action for specific performance, as Gas Purchaser determines may be necessary or appropriate to enforce any covenant, agreement, or obligation in this Agreement against MMGA, and Gas Purchaser in its sole discretion may, upon three days

written notice to MMGA, cease and discontinue providing receipt of all or any portion of the Gas otherwise to be delivered to Gas Purchaser at the Delivery Point under this Agreement.

14.6 Arbitration and Mediation. Notwithstanding any other provision of this Agreement to the contrary, the Parties may agree to mediate or arbitrate any dispute that arises under this Agreement.

14.7 Third Party Beneficiaries. Except as provided in this Section 14.7, it is specifically agreed that there are no third party beneficiaries of this Agreement and that this Agreement shall not impart any rights enforceable by any Person not a party to this Agreement. Gas Purchaser acknowledges and agrees that (i) MMGA will pledge and assign to the Trustee its rights, title and interest in this Agreement and the amounts payable by Gas Purchaser under this Agreement (other than amounts payable in respect of the project administration fee under Section 4.3) to secure MMGA's obligations under the Indenture, (ii) the Trustee, the Funding Provider and the Commodity Swap Counterparty shall each be a third party beneficiary of this Agreement with the right to enforce Gas Purchaser's obligations under this Agreement, and (iii) the Trustee or any receiver appointed under the Indenture shall have the right to perform all obligations of MMGA under this Agreement.

(o)

PROJECT MANAGEMENT AND ADMINISTRATION

MMGA covenants and agrees that it will use all commercially reasonable efforts to acquire, manage and administer the Project for the benefit of all of the Project Participants. The Project Management Committee will meet from time to time and may make such reports and recommendations to MMGA concerning the administration, management and operation of the Project as the Project Management Committee deems appropriate. MMGA agrees with and

covenants to Gas Purchaser that MMGA will vigorously enforce and defend its rights under the Transaction Documents. Gas Purchaser acknowledges and agrees that MMGA may from time to time enter into amendments of and supplements to the Indenture and any or all of the other Transaction Documents (in accordance with their respective terms) and that MMGA will not be required to obtain the consent or approval of Gas Purchaser in connection with any such supplement or amendment, as long as such amendments and supplements do not negatively affect the terms of this Agreement.

(p)

WAIVERS

No waiver by either MMGA or Gas Purchaser of any default of the other under this Agreement shall operate as a waiver of any future default, whether of like or different character or nature.

(q)

SUCCESSION AND ASSIGNMENT

The terms and provisions of this Agreement shall extend to and be binding upon the Parties and their respective successors, assigns, and legal representatives; provided, however, that, except for the assignment by MMGA to the Trustee as described in Section 14.7, neither Party may assign this Agreement or its rights and interests, in whole or in part, under this Agreement without the prior written consent of the other Party and the delivery of such additional consents and satisfaction of such other requirements as are set forth in the Indenture. Whenever an assignment or a transfer of a Party's interest in this Agreement is requested to be made with the written consent of the other Party, the assigning or transferring Party's assignee or transferee shall expressly agree to assume, in writing, the duties and obligations of the assigning or transferring Party under this Agreement.

Upon the agreement of a Party to any such assignment or transfer, the assigning or transferring Party shall furnish or cause to be furnished to the other Party a true and correct copy of such assignment or transfer and assumption of duties and obligations.

(r)

NOTICES AND PAYMENTS

Except as is otherwise specifically provided in this Agreement, any notice, request, demand, or statement provided for in this Agreement must be given in writing and delivered in person, by United States mail, or by express courier to the respective Parties at the addresses shown below or at such other addresses as may hereafter be furnished to the other Party in writing, and all payments due from Gas Purchaser under this Agreement shall be made by wire transfer to the account for payments set forth below:

MMGA:

Minnesota Municipal Gas Agency

[_____]

[_____]

[_____]

Attn: [_____]

Telephone: [_____]

Cell: [_____]

Facsimile: [_____]

Email: [_____]

Payments:

[TRUSTEE]

ABA #: [_____]

A/C #: [_____]

Re: MMGA 2019 Revenue Fund

Attn: [_____]

Telephone: [_____]

Email: [_____]

Trustee:

[_____]

[_____]

[_____]

[_____]

Attn: [_____]

Telephone: [_____]

Facsimile: [_____]

Email: [_____]

Gas Purchaser:

Kansas Municipal Gas Agency

6300 West 95th Street

Overland Park, KS 66212-1431

Attn: General Manager

Telephone: (913) 660-0234

Facsimile: (913) 677-0804

Email: mahlberg@kmea.com

Any notice initially delivered orally as may be permitted under this Agreement shall be confirmed in writing, and any notice initially delivered by facsimile transmission, email or other electronic

means shall be followed by a hard copy sent by first-class mail or express courier within two days after transmission of the facsimile transmission, email or other electronic means.

(s)

CHOICE OF LAW

This Agreement is entered into by MMGA pursuant to the authority contained in the Act. This Agreement shall be interpreted and construed in accordance with the Act and other applicable laws of the State of Minnesota, excluding conflicts of law principles which would refer to the laws of another jurisdiction; provided, however, that the authority of Gas Purchaser to enter into this Agreement and perform its obligations under it shall be interpreted in accordance with the Laws of the State of Kansas.

(t)

MODIFICATIONS

No modifications of the terms and provisions of this Agreement shall be or become effective except pursuant to and upon the due and mutual execution of an appropriate supplemental written amendment by the Parties.

(u)

COMPUTATIONS

All computations related to prices and indices performed under this Agreement shall be rounded to four decimal places (\$0.0000).

(v)

REPRESENTATIONS AND WARRANTIES

22.1 Representations and Warranties of MMGA. MMGA hereby makes the following representations and warranties to Gas Purchaser:

i. MMGA is a joint action gas supply agency of the State of Minnesota duly organized and validly existing under the Act and has the power and authority to own its properties, to carry on its business as now being conducted, and to enter into and to perform its obligations under this Agreement.

ii. The execution, delivery, and performance by MMGA of this Agreement have been duly authorized by all necessary corporate action of MMGA and do not and will not require, subsequent to the execution of this Agreement by MMGA, any consent or approval of the Board of Directors or any officers of MMGA.

iii. This Agreement is the legal, valid, and binding obligation of MMGA, enforceable in accordance with its terms, except as such enforceability may be subject to (i) the exercise of judicial discretion in accordance with general principles of equity and (ii) bankruptcy, insolvency, reorganization, moratorium, and other similar laws affecting creditors' rights heretofore or hereafter enacted, to the extent constitutionally applicable.

iv. As of the date of this Agreement, there is no pending or, to MMGA's knowledge, threatened action or proceeding affecting MMGA which purports to affect the legality, validity, or enforceability of this Agreement.

v. MMGA shall deliver to Gas Purchaser as a condition precedent to Gas Purchaser's execution of this Agreement an opinion letter of counsel to MMGA, in substantially the form set forth in Exhibit E.

b. Representations and Warranties of Gas Purchaser. Gas Purchaser hereby makes the following representations and warranties to MMGA:

i. Gas Purchaser is a joint action agency created and existing pursuant to the provisions of laws of the State of Kansas, duly organized and validly existing under the laws of

the State of Kansas, and has the corporate power and authority to enter into and perform its obligations under this Agreement.

ii. The execution, delivery, and performance by Gas Purchaser of this Agreement have been duly authorized by the governing body of Gas Purchaser and do not and will not require, subsequent to the execution of this Agreement by Gas Purchaser, any consent or approval of the governing body or any officers of Gas Purchaser.

iii. This Agreement is the legal, valid, and binding obligation of Gas Purchaser, enforceable in accordance with its terms, except as such enforceability may be subject to (i) the exercise of judicial discretion in accordance with general principles of equity and (ii) bankruptcy, insolvency, reorganization, moratorium, and other similar laws affecting creditors' rights heretofore or hereafter enacted, to the extent constitutionally applicable.

iv. As of the date of this Agreement, there is no pending or, to Gas Purchaser's knowledge, threatened action or proceeding affecting Gas Purchaser which purports to affect the legality, validity, or enforceability of this Agreement.

v. Gas Purchaser shall deliver to MMGA as a condition precedent to MMGA's execution of this Agreement an opinion letter of counsel to Gas Purchaser in substantially the form set forth in Exhibit F.

vi. Gas Purchaser shall deliver to MMGA as a condition precedent to MMGA's execution of this Agreement the Closing Certificate in substantially the form set forth in Exhibit H.

(w)

CERTAIN OBLIGATIONS WITH RESPECT TO THE BONDS

23.1 Tax-Exempt Status of Bonds. The Bonds will be issued with the intention that the interest thereon will be excludable from the gross income of the holders thereof under Section 103 of the Code. Accordingly, Gas Purchaser agrees for the benefit of the owners of the Bonds that it will act in accordance with written instructions that MMGA may reasonably require from time to time in connection with the tax-exempt status of the Bonds, and in addition that it will not at any time take any action, or fail to take any action, if such action or failure to take action would adversely affect the exclusion from the gross income of the holders thereof of interest on the Bonds under the Code. Without limiting the foregoing, Gas Purchaser further agrees to resell or otherwise use Gas purchased under this Agreement (i) for a “qualifying use” as defined in U.S. Treas. Reg. § 1.148-1(e)(2)(iii), (ii) in a manner that will not result in any private business use of that Gas within the meaning of Section 141 of the Code, and (iii) in a manner that is consistent with the Federal Tax Certificate set forth in Exhibit D, and that it will not use Gas purchased under this Agreement in any other manner without the prior written consent of MMGA. Gas Purchaser agrees that it will execute such additional documents and certificates as Bond Counsel may reasonably request evidencing Gas Purchaser’s compliance with this Section 23.1, with the Code, and with Treasury Regulations thereunder. Gas Purchaser further agrees that it will provide all documents and records reasonably requested by MMGA for response to any inquiry or audit relating to the tax-exempt status of the bonds.

23.2 Continuing Disclosure. Gas Purchaser shall provide a copy of its audited financial statements to MMGA each fiscal year promptly following the conclusion of Gas Purchaser’s annual audit. In addition, Gas Purchaser hereby covenants and agrees that it will provide to

MMGA annual operating and financial information relating to its Gas transmission and distribution system as required by Rule 15(c)2-12 of the United States Securities Exchange Commission (the “Rule”) to the extent the Rule is applicable to the Bonds. Failure by Gas Purchaser to comply with this undertaking shall not be a default under this Agreement, but any such failure shall entitle MMGA and the owner or owners of any of the Bonds to take such actions and to initiate such proceedings as may be necessary and appropriate to cause Gas Purchaser to comply with its undertaking as set forth in this Section 23.2, including without limitation the remedies of mandamus and specific performance.

EXCHANGES

- a. General Rule. Gas Purchaser may effectuate an exchange of Delivery Points for Gas purchased under this Agreement on a daily or Monthly basis under Section 24.2 or Section 24.3; provided, however, that any failure by a third party to perform its obligations under any such exchange arrangement shall not relieve Gas Purchaser of its obligations under this Agreement.
- b. Description of Exchange Agreement. Gas Purchaser may enter into an exchange agreement with a third party under which Gas Purchaser implements redelivery of the Gas delivered at the Delivery Point (“Point A”) to a delivery point on another pipeline connected with Gas Purchaser’s system (“Point B”). Under such an exchange agreement, Gas Purchaser would deliver Gas at Point A to the exchange counterparty and receive delivery of an equivalent value of Gas at Point B from the exchange counterparty. The equivalent value of Gas at Point B may be taken by Gas Purchaser on the same Gas Day that Gas is delivered at Point A or at any time after such Gas Day within the same or the next succeeding Month. The transaction described in

this Section 24.2 is not itself a “disqualifying use” under federal tax law in effect on the date of this Agreement.

- c. Exchange Transactions Through a Third Party. In addition to an exchange agreement under Section 24.2, Gas Purchaser may effectuate an exchange of deliveries of Gas at Point A (as described in Section 24.2) for deliveries at Point B (as described in Section 24.2) by entering into an agreement to provide the exchange through a third party. Under such an agreement, Gas Purchaser would arrange for the delivery of Gas to one party (“Party 1”) at Point A, and the receipt of Gas from another party (“Party 2”) at Point B, either directly or through a commodity exchange such as the Intercontinental Exchange (“ICE”), and bring the arrangements with Party 1 and Party 2 to a third party for the third party to enter into. Gas Purchaser would then enter into an exchange agreement with the third party, as described in Section 24.2 above. The transaction described in this Section 24.3 is not itself a “disqualifying use” under federal tax law in effect on the date of this Agreement.

MISCELLANEOUS

- d. Entirety of Agreement. This Agreement constitutes the entire agreement between MMGA and Gas Purchaser with respect to the sale, delivery, purchase and receipt of the Daily Contract Quantity under the Project, and supersedes any and all prior negotiations, understandings, or agreements, whether oral or in writing.
- e. Headings. The headings used throughout this Agreement are inserted for reference purposes only and shall not be construed or considered in interpreting the terms and provisions of any Section or Article or the Agreement as a whole.

- f. Severability. If any Article, Section, term, or provision of this Agreement becomes or is declared by a court of competent jurisdiction to be illegal, unenforceable, or void, this Agreement shall continue in full force and effect without said Article, Section, term, or provision; provided, however, that if such severability materially changes the economic benefits of this Agreement to either Party, the Parties agree to negotiate promptly an equitable adjustment in the provisions of the Agreement in good faith so as to place the Parties in as close to the same position as is possible under the circumstances as they were prior to such declaration by the court or other action or event.
- g. Limited Liability. MMGA and Gas Purchaser acknowledge and agree that Gas Purchaser's obligations under this Agreement are limited as expressly described in this Agreement and that MMGA has no recourse to any other source of payment from Gas Purchaser except as set forth in Section 11.4 of this Agreement. MMGA and Gas Purchaser acknowledge and agree that Gas Purchaser has no recourse to any source of payment from MMGA under this Agreement except the Trust Estate as defined in the Indenture, and only to the extent such funds are available to be applied for such purpose in accordance with the Indenture.
- h. Counterparts. This Agreement may be executed in any number of counterparts, all of which taken together shall constitute one and the same instrument, and each of which shall be deemed to be an original instrument as against a Party that has signed it.

[The remainder of this page is left blank intentionally.]

[Signature page to follow]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the date hereinabove first written.

MINNESOTA MUNICIPAL GAS AGENCY

By: _____

Attested By: _____

Printed Name: _____

Printed Name: _____

Its: _____

Title: _____

KANSAS MUNICIPAL GAS AGENCY]

By: _____

Attested By: _____

Printed Name: _____

Printed Name: _____

Its: _____

Title: _____

**[SIGNATURE PAGE OF THE NATURAL GAS SUPPLY AGREEMENT
DATED AS OF [_____] , 2019]**

EXHIBIT A

PRIMARY DELIVERY POINTS AND INDEX PREMIUMS

EXHIBIT B

DAILY CONTRACT QUANTITIES (MMBtu)

<u>Delivery Months</u>	<u>Daily Contract Quantity (MMBtu/Day)</u>

EXHIBIT C

**PROJECT PARTICIPANTS
AND THEIR DAILY CONTRACT QUANTITIES (MMBtu per Day)**

Delivery Months	Daily Contract Quantity (MMBtu/Day)		
	[Name of Participant]	[Name of Participant]	[Name of Participant]

EXHIBIT D

FEDERAL TAX CERTIFICATE

This Federal Tax Certificate is executed in connection with the Natural Gas Supply Agreement dated as of [_____], 2019 (the "Supply Agreement"), by and between Minnesota Municipal Gas Agency ("MMGA") and Kansas Municipal Gas Agency ("Gas Purchaser"). Capitalized terms used and not otherwise defined herein shall have the meanings given to them in the Supply Agreement or in the Indenture.

WHEREAS Gas Purchaser acknowledges that MMGA is issuing the Bonds to fund the prepayment price under the Prepaid Gas Agreement; and

WHEREAS the Bonds are intended to qualify for tax exemption under Section 103 of the Internal Revenue Code of 1986, as amended; and

WHEREAS Gas Purchaser's use of Gas acquired pursuant to the Supply Agreement and certain funds and accounts of Gas Purchaser will affect the Bonds' qualification for such tax exemption.

NOW, THEREFORE, GAS PURCHASER HEREBY CERTIFIES AS FOLLOWS:

Gas Purchaser is a joint action agency created and existing pursuant to the laws of the State of Kansas.

Gas Purchaser will resell all of the Gas acquired pursuant to the Supply Agreement to its municipal wholesale customers, which will resell the Gas to their customers within their Gas service areas with retail sales in all cases being made pursuant to regularly established and generally applicable tariffs or under authorized requirements contracts. For purposes of the foregoing sentence, the term "service area" means (x) the area throughout which Gas Purchaser's municipal wholesale customers provided Gas transmission or distribution service at all times during the 5-year period ending on December 31, 2018, and from then until the date of issuance of the Bonds (the "Closing Date"), and (y) any area recognized as the service area of Gas Purchaser's municipal wholesale customers under state or federal law.

The annual average amount during the testing period of Gas purchased (other than for resale) by municipal wholesale customers of Gas Purchaser for resale within the service areas of such municipal wholesale customers is [_____] MMBtu. The maximum annual amount of Gas in any year being acquired pursuant to the Supply Agreement is [_____] MMBtu. The annual average amount of Gas which Gas Purchaser holds in storage as of the Closing Date is [_____] MMBtu. The annual average amount of Gas which Gas Purchaser otherwise has a right to acquire as of the Closing Date is [_____] MMBtu. The sum of (a) the maximum amount of Gas in any year being acquired pursuant to the Supply Agreement, (b) the annual average amount of Gas which Gas Purchaser holds in storage, and (c) the amount of Gas which Gas Purchaser otherwise has a right to acquire in the year described in the foregoing clause (a) is [_____] MMBtu. Accordingly, the amount of Gas to be acquired under the Supply Agreement by Gas Purchaser, supplemented by the amount of Gas otherwise available to Gas Purchaser as of the Closing Date,

during any year does not exceed the sum of (i) [_____] % of the annual average amount during the testing period of Gas purchased by municipal wholesale customers of Gas Purchaser for resale to customers of such municipal wholesale customers within such customers' service areas; and (ii) the amount of Gas to be used to transport the prepaid Gas to Gas Purchaser during such year. For purposes of this paragraph 3, the term "testing period" means the 5 calendar years ending December 31, 2018, and the term "service area" means (x) the area throughout which Gas Purchaser's municipal wholesale customers provided Gas transmission or distribution service at all times during the testing period, (y) any area within a county contiguous to the area described in (x) in which retail customers of Gas Purchaser's municipal wholesale customers are located if such area is not also served by another utility providing Gas services, and (z) any area recognized as the service area of Gas Purchaser under state or federal law.

Gas Purchaser expects to pay for Gas acquired pursuant to the Supply Agreement with funds derived from contracts for purchase with certain members who operate Gas distribution systems. Gas Purchaser expects to use current Gas revenues from its members to pay for current Gas acquisitions. There are no funds or accounts of Gas Purchaser or any person who is a Related Person to Gas Purchaser in which monies are invested and which are reasonably expected to be used to pay for Gas acquired more than one year after it is acquired. No portion of the proceeds of the Bonds will be used directly or indirectly to replace funds of Gas Purchaser or any persons who are Related Persons to Gas Purchaser that are or were intended to be used for the purpose for which the Bonds were issued.

[_____], 2019

By: _____
[Authorized Representative]

EXHIBIT E

FORM OF OPINION OF COUNSEL TO [ISSUER]

[CLOSING DATE]

Kansas Municipal Gas Agency
[Address]

Re: Natural Gas Supply Agreement by and between Minnesota Municipal Gas Agency and Kansas Municipal Gas Agency dated as of [_____], 2019

Ladies and Gentlemen:

We are Counsel to Minnesota Municipal Gas Agency (“MMGA”) and in that capacity we have acted as counsel to MMGA in conjunction with the above-captioned Natural Gas Supply Agreement (the “Agreement”) between MMGA and Kansas Municipal Gas Agency (“Gas Purchaser”).

This opinion is being delivered pursuant to the Agreement. Unless otherwise specified herein, all terms used but not defined in this opinion shall have the same meanings as are ascribed to them in the Agreement.

In rendering this opinion, we have examined a copy of the Agreement and such records and other documents as we have deemed necessary and relevant for the purposes of this opinion. In our examination, we have assumed the genuineness of all signatures (other than those of officers or representatives of MMGA), the authenticity of all documents submitted to us as originals, and the conformity of all original documents submitted to us as certified or photostatic copies.

As to factual matters, we have relied solely upon the documents described above, the representations and warranties of MMGA contained in the Agreement, the certificate of incorporation of MMGA, and various certificates and other documents furnished to us by MMGA’s officers and its Board of Directors. In basing the opinions set forth in this letter on “our knowledge”, the words “our knowledge” signify that, in the course of our representation, no facts have come to our attention that would give us actual knowledge or actual notice that any such opinions or other matters are not accurate. Except as otherwise stated in this opinion, we have undertaken no investigation or verification of such matters.

Based on the foregoing, and subject to the qualifications set forth herein, we are of the following opinion:

(1) MMGA is a municipal gas agency and a municipal corporation and political subdivision of the State of Minnesota duly organized and validly existing under Minnesota Statutes, Chapter 453A, as amended, and has the power and authority to own its properties, to carry on its business as now being conducted, and to enter into and to perform its obligations under the Agreement.

(2) The execution, delivery, and performance by MMGA of the Agreement have been duly authorized by all necessary corporate action of MMGA and do not and will not require, subsequent to the execution of the Agreement by MMGA, any consent or approval of the Board of Directors or any officers of MMGA.

(3) The Agreement is the legal, valid, and binding obligation of MMGA, enforceable in accordance with its terms, except as such enforceability may be subject to (i) the exercise of judicial discretion in accordance with general principles of equity and (ii) bankruptcy, insolvency, reorganization, moratorium, and other similar laws affecting creditors' rights heretofore or hereafter enacted, to the extent constitutionally applicable.

(4) As of the date of this opinion, there is no pending or, to our knowledge, threatened action or proceeding at law or in equity or by any court, government agency, public board or body affecting or questioning the existence of MMGA or the titles of its officers to their respective offices or affecting or questioning the legality, validity, or enforceability of the Agreement, nor to our knowledge is there any basis therefor.

(5) The execution and delivery of the Agreement and compliance by MMGA with the provisions thereof will not conflict with or constitute on the part of MMGA a material breach of or default under any agreement or instrument to which MMGA is a party, or violate any existing law, administrative regulation, court order or consent decree to which MMGA is subject.

The scope of this opinion is limited to those issues and parties specifically considered herein and no further or more expansive opinion is implied or should be inferred from any opinion expressed herein. On such basis, any variation or difference in the facts upon which this opinion is based might affect our conclusions in an adverse manner and make them inaccurate.

The foregoing opinion is rendered solely for the use and benefit of Gas Purchaser in connection with the Agreement and may not be relied upon other than in connection with the transactions contemplated by the Agreement, or by any other person or entity for any purpose whatsoever, nor may it be quoted in whole or in part or otherwise referred to in any document or delivered to any other person or entity without the prior written consent of the undersigned. The information set forth herein is as of the date hereof. We assume no obligation to advise you of changes in fact or law which may hereafter come to our attention.

Sincerely,

EXHIBIT F

**FORM OF OPINION OF COUNSEL
TO GAS PURCHASER**

[CLOSING DATE]

Minnesota Municipal Gas Agency
Plymouth, Minnesota

Royal Bank of Canada
Toronto, Canada

RBC Capital Markets, Inc.
New York, New York

[COMMODITY SWAP COUNTERPARTY]

[_____]

[TRUSTEE]

[_____]

Re: Natural Gas Supply Agreement between Kansas Municipal Gas Agency and
Minnesota Municipal Gas Agency, dated as of [_____], 2019

Ladies and Gentlemen:

We are Counsel to [_____] (“Gas Purchaser”). Gas Purchaser is a Project Participant in the Project undertaken by Minnesota Municipal Gas Agency (“MMGA”). We are furnishing this opinion to you in connection with the Natural Gas Supply Agreement between MMGA and Gas Purchaser dated as of [_____], 2019 (the “Supply Agreement”).

Unless otherwise specified herein, all terms used but not defined in this opinion shall have the same meaning as is ascribed to them in the Supply Agreement.

In connection with this opinion, we have examined originals or copies, certified or otherwise identified to our satisfaction, of the following:

(x) The Constitution and laws of the State of Kansas (the “State”) including, as applicable, acts, ordinances, certificates, articles, charters, bylaws, and agreements pursuant to which Gas Purchaser was created and by which it is governed;

(y) Resolution No. [___], duly adopted by Gas Purchaser on [_____] (the “Resolution”) and certified as true and correct by certificate and seal, authorizing Gas Purchaser to execute and deliver the Supply Agreement;

(z) A copy of the Supply Agreement executed by Gas Purchaser; and

(aa) Copies of contracts between Gas Purchaser and its members who participate in the project related to the Supply Agreement.

We have also examined and relied upon originals or copies, certified or otherwise authenticated to our satisfaction, of such records, documents, certificates, and other instruments, and made such investigations of law, as in our judgment we have deemed necessary or appropriate to enable us to render the opinions expressed below.

Based upon the foregoing, we are of the opinion that:

1. Gas Purchaser is a joint action agency created by an interlocal cooperation agreement under the laws of the State, duly organized and validly existing under the laws of the State and has the power and authority to own its properties, to carry on its business as now being conducted, and to enter into and to perform its obligations under the Agreement.
2. The execution, delivery, and performance by Gas Purchaser of the Supply Agreement have been duly authorized by the governing body of Gas Purchaser and do not and will not require, subsequent to the execution of the Supply Agreement by Gas Purchaser, any consent or approval of the governing body or any officers of Gas Purchaser.
3. The Supply Agreement is the legal, valid, and binding obligation of Gas Purchaser, enforceable in accordance with its terms, except as such enforceability may be subject to (i) the exercise of judicial discretion in accordance with general principles of equity and (ii) bankruptcy, insolvency, reorganization, moratorium, and other similar laws affecting creditors' rights heretofore or hereafter enacted, to the extent constitutionally applicable.
4. No approval, consent or authorization of any governmental or public agency, authority, commission or person, or, to our knowledge, of any holder of any outstanding bonds or other indebtedness of Gas Purchaser, is required with respect to the execution, delivery and performance by Gas Purchaser of the Supply Agreement or Gas Purchaser's participation in the transactions contemplated thereby other than those approvals, consents and/or authorizations that have already been obtained.
5. The authorization, execution and delivery of the Supply Agreement and compliance with the provisions thereof (a) will not conflict with or constitute a breach of, or default under, (i) any instrument relating to the organization, existence or operation of Gas Purchaser, (ii) any ruling, regulation, ordinance, judgment, order or decree to which Gas Purchaser (or any of its officers in their respective capacities as such) is subject or (iii) any provision of the laws of the State relating to Gas Purchaser and its affairs, and (b) to our knowledge will not result in, or require the creation or imposition of, any lien on any of the properties or revenues of Gas Purchaser pursuant to any of the foregoing.
6. Gas Purchaser is not in material breach of or default under any applicable constitutional provision or any law or administrative regulation of the State or the United States or any applicable judgment or decree or, to our knowledge, any loan or other agreement, resolution, indenture, bond, note, resolution, agreement or other instrument to which Gas Purchaser is a party or to which Gas Purchaser or any of its property or assets is otherwise subject, and to our knowledge no event has

occurred and is continuing which with the passage of time or the giving of notice, or both, would constitute a material default or event of default under any such instrument.

7. Payments to be made by Gas Purchaser under the Supply Agreement will be derived from payments made under contracts between Gas Purchaser and its members that choose to participate in a project related to the Supply Agreement. The payments by the members shall constitute operating expenses of their respective utility systems payable solely from the revenues and other available funds of the respective members' utility system as a cost of purchased gas

8. As of the date of this opinion, to our knowledge after due inquiry, there is no pending or threatened action or proceeding at law or in equity or by any court, government agency, public board or body affecting or questioning the existence of Gas Purchaser or the titles of its officers to their respective offices or affecting or questioning the legality, validity, or enforceability of this Supply Agreement nor to our knowledge is there any basis therefor.

This opinion is rendered solely for the use and benefit of the addressees hereof in connection with the Supply Agreement and may not be relied upon other than in connection with the transactions contemplated by the Supply Agreement, or by any other person or entity for any purpose whatsoever, nor may this opinion be quoted in whole or in part or otherwise referred to in any document or delivered to any other person or entity, without the prior written consent of the undersigned.

Very truly yours,

EXHIBIT G

FORM OF REMARKETING ELECTION NOTICE

[MMGA]
[Address]

[Gas Supplier]
[Address]

[Trustee]
[Address]

To the Addressees:

The undersigned, a duly authorized representative of Kansas Municipal Gas Agency (the “Gas Purchaser”), is providing this notice (the “Gas Remarketing Election Notice”) pursuant to the Natural Gas Supply Agreement, dated as of [_____], 2019 (the “Supply Agreement”), between Minnesota Municipal Gas Agency and the Gas Purchaser. Capitalized terms used herein shall have the meanings set forth in the Supply Agreement.

Pursuant to Section 5.3(b) of the Supply Agreement, the Gas Purchaser has elected to have [_____]MMBtu of its DCQ on [_____] {insert name of Transporter} for each Gas Day of each Delivery Month of the Remaining Term remarketed beginning with the month of [_____] 20[___], and thereafter the Supply Agreement shall terminate in accordance with Section 5.3(c) thereof.

Given this [___] day of [_____], 20[___].

KANSAS MUNICIPAL GAS AGENCY

By: _____
Name:
Title:

EXHIBIT H

FORM OF CLOSING CERTIFICATE

[Closing Date]

Re: Minnesota Municipal Gas Agency Gas Supply Revenue Bonds, Series 2019, Sub-series 2019A and 2019B

The undersigned [TITLE] of Kansas Municipal Gas Agency (the “Gas Purchaser”), pursuant to the Bond Purchase Agreement, dated [_____], 2019 (the “Bond Purchase Agreement”), by and between RBC Capital Markets, LLC and Minnesota Municipal Gas Agency, with respect to the issuance and sale of the captioned bonds (the “Bonds”), hereby certifies as follows (capitalized terms used herein and not defined shall have the meanings given to such terms in the Bond Purchase Agreement):

(i) by all necessary official action of the Gas Purchaser, the Gas Purchaser has duly authorized or approved (a) the execution and delivery of, and the performance by the Gas Purchaser of the obligations on its part contained in the Supply Agreement, and (b) the consummation by it of all other transactions contemplated by the Official Statement and the Bond Purchase Agreement and any and all such other agreements and documents as may be required to be executed, delivered and/or received by Gas Purchaser in order to carry out, give effect to, and consummate the transactions contemplated in the Bond Purchase Agreement and in the Official Statement;

(ii) the Gas Purchaser is not in breach of or default in any material respect under any applicable constitutional provision, law or administrative regulation of the State or the United States or any applicable judgment or decree or any loan agreement, indenture, bond, note, resolution, agreement or other instrument to which the Gas Purchaser is a party or to which the Gas Purchaser is or any of their property or assets are otherwise subject, and no event has occurred and is continuing which constitutes or with the passage of time or the giving of notice, or both, would constitute a default or event of default in any material respect by the Gas Purchaser under any of the foregoing; and the execution and delivery of the Supply Agreement and compliance with the provisions on the Gas Purchaser’s part contained therein, will not conflict with or constitute a breach of or default in any material respect under any constitutional provision, administrative regulation, judgment, decree, loan agreement, indenture, bond, note, resolution, agreement or other instrument to which the Gas Purchaser is a party or to which the Gas Purchaser or to which any of its property or assets are otherwise subject;

(iii) no litigation or proceeding or tax challenge against it is pending or, to its knowledge, threatened in any court or administrative body nor is there a basis for litigation which would (a) contest the right of the members or officials of the Gas Purchaser to hold and exercise their respective positions, (b) contest the due organization and valid existence of the Gas Purchaser, (c) contest the validity, due authorization and execution of the Supply Agreement or (d) attempt to limit, enjoin or otherwise restrict or prevent the Gas Purchaser from undertaking the transactions contemplated by the Official Statement and the Supply Agreement;

(iv) all authorizations, approvals, licenses, permits, consents and orders of any governmental authority, legislative body, board, agency or commission having jurisdiction of the matter which are required for the due authorization of, which would constitute a condition precedent to, or the absence of

which would materially adversely affect the due performance by the Gas Purchaser of its obligations under the Supply Agreement have been duly obtained;

(v) as of the date thereof, and at all times up to and including the date hereof, the information set forth in Appendix C to the Official Statement relating to the Gas Purchaser did not and does not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading;

(vi) to the knowledge of the Gas Purchaser, no event affecting the Gas Purchaser has occurred since the date of the Official Statement which should be disclosed in the Official Statement for the purpose for which it is to be used or which is necessary to disclose therein in order to make the statements and information therein, in light of the circumstances under which made, not misleading in any respect as of the time of Closing;

(vii) the Gas Purchaser will not knowingly take or omit to take any action which action or omission will adversely affect the exclusion from gross income for federal income tax purposes of the interest on the Bonds.

IN WITNESS WHEREOF the undersigned has executed this certificate all as of the [____] day of [_____], 2019.

KANSAS MUNICIPAL GAS AGENCY

By _____
Name:
Title: