

OFFICE OF THE CITY ATTORNEY  
CHARLES PARKIN, City Attorney  
333 West Ocean Boulevard, 11th Floor  
Long Beach, CA 90802-4664

1 CUSTOMER NATURAL GAS TRANSPORTATION/SERVICE AGREEMENT

2 **34692**

3 THIS AGREEMENT is made and entered into, as of July 31, 2017,  
4 by and between NEW NGC, INC. DBA NATIONAL GYPSUM COMPANY, a Delaware  
5 corporation ("Customer"), and the CITY OF LONG BEACH, a municipal corporation,  
6 through its GAS & OIL DEPARTMENT ("City" or "LBGO", and together with Customer,  
7 each a "Party") under the authority given by the City Council of the City of Long Beach in  
8 Chapter 15.36 of the Long Beach Municipal Code and Resolution Number RES-17-0049  
9 approved May 9, 2017, or as amended, for transportation and service of gas within the City  
10 of Long Beach for Rate Schedule 5, 7 and 9 Customers.

11 NOW, THEREFORE, in consideration of the mutual terms, covenants, and  
12 conditions in this Agreement, the parties agree as follows:

13 1. TERM AND TERMINATION. This Agreement shall be effective on  
14 August 1, 2017 and terminate at midnight on July 31, 2022, subject to the terms and  
15 conditions set forth herein. Following the initial five (5) year period, this Agreement shall  
16 automatically renew annually for a period of one (1) year, unless a Party delivers a written  
17 termination notice to the other Party at least ninety (90) days prior to the then-current  
18 termination date. Any Party may terminate this Agreement at any time by giving the  
19 other Party ninety (90) days prior written notice.

20 2. DEFINITIONS.

21 Agent / Contracted Marketer: Shall mean Shell Energy North America (SENA),  
22 or any replacement therefor designated in writing by LBGO.

23 Base Period: Shall mean the twelve (12) month period of time immediately  
24 prior to Customer obtaining Standby Customer status.

25 Business Day: Shall mean a day in which the City is open for business. A  
26 Business Day shall open at 7:30 a.m. and close at 4:30 p.m., Pacific Clock Time.

27 CPUC: Shall mean the California Public Utilities Commission or its  
28 successor agency with regulatory jurisdiction over intrastate pipelines, tariff and gas

1 services in California.

2           Curtailment: When SoCalGas and/or LBGO (jointly or separately referred  
3 hereafter in this definition as “Utility”) or other operator of any other transmission pipeline  
4 used by LBGO, initiates suspension of gas service, Utility may temporarily reduce the  
5 daily quantity of gas it will transport or deliver or terminate service entirely for certain  
6 service categories as needed for operational and/or contractual requirements.  
7 Curtailment is implemented when, in the Utility’s judgment, there exists a restriction or  
8 limitation on Utility transmission or distribution pipelines necessary for the acceptance,  
9 transportation or subsequent redelivery of gas resulting in Utility being unable to meet its  
10 operational, contractual or gas customers’ requirements or when the Utility has a deficiency  
11 of gas supply available to meet its operational, contractual or sales customers’  
12 requirements.

13           Force Majeure: Shall mean, without limitation, the following events: (i)  
14 physical events such as acts of God, landslides, lightning, earthquakes, fires, storms or  
15 storm warnings, such as hurricanes, which result in evacuation of the affected area, floods,  
16 washouts, explosions, breakage or accident or necessity of repairs to machinery or  
17 equipment or lines of pipe; (ii) weather related events affecting an entire geographic region,  
18 such as low temperatures which cause freezing or failure of wells or lines of pipe; (iii)  
19 interruption and/or curtailment of transportation and/or storage by transporters; (iv) acts of  
20 others such as strikes, lockouts or other industrial disturbances, riots, sabotage,  
21 insurrections or wars; and (v) governmental actions such as necessity for compliance with  
22 any court order, law statute, ordinance, regulation or policy having the effect of law  
23 promulgated by a governmental authority having jurisdiction.

24           Gas: Shall mean natural gas.

25           Imputed Value of the Commodity: For purposes of this Agreement, LBGO  
26 and Customer intend that the imputed value equals LBGO’s Noncore Commodity Charge.

27           LBGO’s Noncore Commodity Charge: Shall mean an amount equal to  
28 LBGO’s weighted average cost per therm of gas supply purchased, necessary to meet the

1 forecasted Core and Non-Core demand for the month. In addition, the cost of gas shall  
2 include the cost to administer the transportation, purchasing, remarketing, balancing, etc.,  
3 of LBGO's natural gas requirements, as well as the cost for any financial transactions  
4 implemented to reduce market exposure for the cost of gas.

5 Overnomination Event: In the event that SoCalGas determines that the  
6 transportation nominations received for a specific date of gas flow ("flow date") exceeds its  
7 expected system capacity (including storage) on such flow date, SoCalGas shall apply  
8 Buy-Back service separately for each flow date that is overnominated as contained in Rule  
9 No. 30.

10 Rate Schedule 5: Shall mean the rate described in Schedule No. 5 of the  
11 LBGO Gas Rate Schedule, as the same may be amended or replaced.

12 Rate Schedule 7: Shall mean the rate described in Schedule No. 7 of the  
13 LBGO Gas Rate Schedule, as the same may be amended or replaced.

14 Rate Schedule 9: Shall mean the rate described in Schedule No. 9 of the  
15 LBGO Gas Rate Schedule, as the same may be amended or replaced.

16 Rule No. 30: Shall mean Rule No. 30 of the SoCalGas Tariff Book, as the  
17 same may be amended or replaced.

18 SoCalGas: Shall mean Southern California Gas Company, a public utility  
19 regulated by the CPUC.

20 Standby Customer: Shall have the meaning given in Section 3(F).

21 Standby Event: Any gas transportation customer who bypasses LBGO's  
22 service, in whole or in part, by connection to and service from an alternate gas  
23 transportation service provider while connected to LBGO's system, shall be subject to a  
24 monthly Standby charge as a Standby Customer, in addition to the charges due under Rate  
25 Schedules 5, 7 and 9.

26 Therm: 100,000 British Thermal Units (BTU).

27 Undernomination Event: SoCalGas requires LBGO to deliver specific  
28 minimum daily volumes, depending upon the SoCalGas storage inventory level, during the

1 period from November through March. In the event that LBGO does not meet the minimum  
2 required delivery volume, SoCalGas shall apply the Daily Balancing Standby Rates for  
3 each flow date as contained in Rule No. 30.

4 3. SCOPE.

5 A. Transportation/Service Program: LBGO shall transport  
6 Customer-owned gas from the point of receipt into the SoCalGas transmission  
7 system to the LBGO distribution system where the gas shall then be transported  
8 and delivered to Customer by LBGO on a daily basis. LBGO or Agent/Contracted  
9 Marketer shall have the right to accept or reject Customer's nominations into the  
10 LBGO system. Any occurrence of Force Majeure shall relieve both parties of their  
11 obligation to perform, including payment.

12 B. Nomination Procedures: The following nomination procedures  
13 shall apply to gas transported and delivered to Customer by LBGO:

14 i. Gas nominations for flow on the first day of the month,  
15 as well as daily gas nominations, must be received in writing via electronic  
16 mail or facsimile by LBGO and Agent/Contracted Marketer no later than 9:00  
17 a.m. Pacific Clock Time, a minimum of one (1) business day prior to the date  
18 of flow.

19 ii. Nomination data must be received by LBGO and  
20 Agent/Contracted Marketer in writing to include pertinent information on  
21 transportation contracts, receipt points, suppliers and any other information  
22 LBGO deems reasonably necessary as set forth in the attached Addendum  
23 A, or revisions and amendments thereto.

24 iii. All determinations by LBGO or Agent/Contracted  
25 Marketer as to allocation points and/or maximum daily quantities related  
26 thereto or as to the procedures utilized for any allocation process, when made  
27 by LBGO, shall be final.

28 iv. In the event of an Overnomination Event declared by

1 SoCalGas, any Customer (i) which is unable or unwilling to reduce its  
2 transportation nomination within the two (2) hour window allotted by  
3 SoCalGas, (ii) whose nominations exceed one hundred ten percent (110%)  
4 of its gas usage, as specified in Rule No. 30, and (iii) whose transported  
5 border volumes were credited to Customer and made whole by LBGO, shall  
6 be billed by LBGO the difference between LBGO's highest priced gas  
7 purchased in said month and the assessed Buy-Back charge credited to  
8 LBGO by SoCalGas.

9 v. In the event of a declared Undernomination Event, as  
10 defined herein, by SoCalGas, any Customer unable or unwilling to nominate  
11 and deliver volumes meeting the minimum requirement, as specified in Rule  
12 No. 30, shall be assessed a charge based on the rate per therm billed to  
13 LBGO by SoCalGas.

14 C. Curtailment: In the event of curtailment, any Customer unable  
15 or unwilling to curtail shall be assessed a penalty based on the charges per therm  
16 billed to LBGO by SoCalGas for volumes used by Customer in violation of  
17 curtailment.

18 D. Minimum Average Volume: All Rate Schedule 5 and 9  
19 customers shall maintain a minimum annual average volume requirement of  
20 250,000 therms of gas to qualify for this Transportation/Service Program. Average  
21 volume shall be calculated on a monthly basis and based on a rolling twelve (12)  
22 month period.

23 E. Under/Over Monthly Deliveries: If Customer's gas purchase  
24 deliveries from third parties are over or under Customer's actual consumption in any  
25 month, the under/over-delivery shall be resolved as follows:

26 i. Over-Deliveries- If Customer had over deliveries in any  
27 month, Customer will be subject to the following restrictions: LBGO shall  
28 permit Customer to carry- over to the following month over-delivery volumes

1 of up to ten percent (10%) of Customer's consumption for the month in which  
2 the over-delivery occurred. Any of Customer's volumes carried over will be  
3 applied first to the following month's consumption. Any volumes of over-  
4 deliveries in excess of ten percent (10%) of Customer's consumption may be  
5 purchased by LBGO, at its sole discretion, by crediting to Customer an  
6 amount that is equal to seventy-five percent (75%) of the lowest cost of gas  
7 purchased by LBGO during the month in which the excess imbalance was  
8 incurred.

9 ii. Under-Deliveries - If Customer's deliveries were not  
10 sufficient to satisfy Customer's actual gas consumption in any month,  
11 Customer shall be subject to the following restrictions: LBGO shall permit  
12 Customer to carry-over to the following month under-delivery volumes of up  
13 to five percent (5%) of Customer's consumption for the month in which the  
14 under-delivery occurred. Any volumes of under- deliveries up to five percent  
15 (5%) of Customer's consumption shall be applied to the following month's  
16 consumption. Any volumes of under-deliveries in excess of five percent (5%)  
17 of Customer's consumption shall be charged to Customer at one hundred  
18 twenty-five percent (125%) of the highest cost of gas purchased by LBGO  
19 during the month the imbalance was incurred, and the applicable  
20 transmission charge per therm.

21 iii. Reconciliation- The under/over deliveries reconciliation  
22 will occur at the end of each month and be incorporated into the Customer's  
23 invoice for that monthly period.

24 iv. Balancing- Should SoCalGas impose additional stricter  
25 balancing provisions upon LBGO, the stricter provisions will be adopted and  
26 implemented by LBGO, as required by SoCalGas, and thereafter apply to  
27 Customer. Customer shall be subject to changed balancing requirements at  
28 the time such balancing is imposed by SoCalGas upon LBGO, irrespective

1 of prior written notice to Customer; however, LBGO will attempt to provide  
2 advance written notice to Customer. Customer is advised that SoCalGas is  
3 considering daily and/or weekly balancing under certain conditions, which  
4 conditions are undetermined at present.

5 F. Standby Customer Status: In the case of a Standby Event,  
6 Customer will be considered to have "Standby Customer" status and Customer shall  
7 be subject to a Minimum Monthly Bill Component charge in addition to all other  
8 rates, charges, or penalties provided under this Agreement.

9 i. The Minimum Monthly Bill Component shall be  
10 determined by multiplying the total monthly gas volume utilized by Customer  
11 during the same calendar month of the Base Period by the current Rate  
12 Schedule 5, 7 or 9 rate, as applicable. If Customer's current monthly billing  
13 period gas consumption volume multiplied by the current Rate Schedule 5, 7  
14 or 9 rate is equal to or greater than the Minimum Monthly Bill Component,  
15 then Customer will be excused from the Minimum Monthly Bill Component  
16 for that specific month and the resulting Standby charge shall be zero.

17 ii. If Customer's actual gas consumption volume for a given  
18 month, multiplied by the current Rate Schedule 5, 7 or 9 rate, as applicable,  
19 is less than the Minimum Monthly Bill Component, then Customer's bill will  
20 include a Standby charge equal to the difference between the Minimum  
21 Monthly Bill Component and the current billing period gas consumption  
22 volume multiplied by Customer's current Rate Schedule 5, 7 or 9 rate, as  
23 applicable.

24 iii. The Standby charge will remain in place until the  
25 Standby Customer notifies LBGO that the alternate gas transportation  
26 service provider's interconnection has been physically and permanently  
27 removed and LBGO inspects and verifies such removal. The Base Period  
28 remains the same as long as the Standby charge remains in place.

1                   iv.     For the purpose of bypass, Customer shall notify LBGO  
2                   in writing within twenty-four (24) hours of either: (a) executing a contract with  
3                   an alternate gas transportation service provider or (b) installing a gas pipeline  
4                   interconnection with an alternate gas transportation service provider. Both  
5                   parties acknowledge that time is of the essence because SoCalGas requires  
6                   LBGO to deliver certain daily volumes into its system.

7                   v.     Upon written request by LBGO, Customer shall within  
8                   forty-eight (48) hours of receipt of such notice, provide LBGO access to its  
9                   facility(ies) in order to physically inspect and/or verify the existence or  
10                  removal of any non-LBGO operated gas pipeline interconnections.

11                  vi.    If Customer attains "Standby Customer" status on any  
12                  day other than the first day of the month, the standby charge due under this  
13                  Section 3(F) will nevertheless be charged as though Customer was a  
14                  "Standby Customer" for the entire calendar month.

15                  G.    Liability: Customer shall be liable for any damages, obligations  
16                  to third parties, fees, charges, surcharges, taxes or costs incurred by LBGO as a  
17                  result of transportation service under this Agreement, except claims arising out of  
18                  gross negligence by LBGO. All production, severance, excise, ad valorem and any  
19                  other similar taxes imposed or levied by city, state or any governmental agency on  
20                  the gas transported for Customer shall be paid by Customer. Customer shall  
21                  indemnify, defend and hold LBGO harmless from any liability against all taxes,  
22                  damages, claims of third parties, fees or charges, or any and all other claims except  
23                  as stated above.

24                  H.    Commodity Procurement Option: In the alternative to  
25                  paragraphs A, Band E of Section 3, Customer may, at any time during the term of  
26                  this Agreement, elect to purchase gas from LBGO for all of its gas requirements  
27                  under the applicable LBGO Rate Schedules by providing advance written  
28                  notification to LBGO of its election. If Customer makes such an election, Customer



1 must purchase all of its gas commodity from LBGO for a minimum of one (1) year  
2 from the date it purchases gas from LBGO. The price will be established by  
3 reference to the current applicable LBGO Rate Schedule. Customer shall be  
4 responsible for payment of all taxes, surcharges and/or penalties.

5 4. FINANCIAL OBLIGATION.

6 A. Customer Billing Account: Each month on or before the  
7 twentieth (20th) day of the month, LBGO shall send Customer an invoice for the net  
8 charges payable hereunder for the preceding month. Such charges shall be based  
9 upon this Agreement and the appropriate prevailing LBGO Rate Schedule and  
10 current LBGO Fees and Charges Schedule in effect at the time of billing. All net  
11 charges for gas delivered to Customer shall be billed to Customer at the address  
12 designated in Section 9.

13 B. Payment: Customer payments must be received no later than  
14 15 days from the statement date on the invoice. Failure to timely pay may result in  
15 immediate termination of gas service to Customer. Customer shall be charged a late  
16 charge on any delinquent or unpaid balance according to the then-current applicable  
17 Long Beach Municipal Code, ordinances and/or resolutions.

18 C. Gas Users Tax: Customer shall pay the tax imposed under the  
19 Long Beach Municipal Code Section 3.68.040, as amended, based upon the total  
20 cost, which includes but is not limited to, the Imputed Value of the Commodity,  
21 transportation services, surcharges, tariffs, under/over-delivery charges, Standby  
22 charges and all other charges and penalties. This tax shall be billed and paid with  
23 the monthly invoice in Section 4(A).

24 D. Adjustments: All gas quantities transported and/or delivered to  
25 LBGO under this Agreement shall be billed based on the best information available  
26 from SoCalGas at the time of billing as determined by LBGO, but shall be subject to  
27 adjustment based on subsequent adjustments, imbalances, under/over-deliveries,  
28 CPUC regulatory decisions or other reconciliations of differences as incurred by

1 LBGO on behalf of the Customer.

2 E. Deposits: At the beginning or at any time during the term of this  
3 Agreement or any extension thereof, LBGO may require Customer, as a condition  
4 of continued gas service, to pay a deposit equivalent to two (2) times Customer's  
5 estimated average monthly billing as a transport customer. The deposit shall be paid  
6 in advance of delivery of gas service under this Agreement and as condition  
7 precedent to the effectiveness of this Agreement, unless otherwise agreed in writing  
8 by LBGO. The deposit may be paid in cash, by a certificate of deposit or a letter of  
9 credit from a bank acceptable to LBGO.

10 F. Electronic Meter-Reading: Customer shall pay for the cost of  
11 electronic meter-reading equipment and the installation of and monthly service  
12 charges associated with such equipment installed on Customer's premises as a  
13 condition of service under this Agreement. If electronic meter-reading equipment  
14 exists on Customer's premises as of the date of Customer's execution of this  
15 Agreement, then Customer shall pay for the monthly service charges and other  
16 costs associated with such equipment.

17 G. Technical Support Fee: Customer shall pay for each service  
18 visit made by LBGO software support technicians pursuant to the current LBGO  
19 Fees and Charges Schedule. Notwithstanding the foregoing, Customer shall not be  
20 obligated to pay any fees in connection with the initial software installation and  
21 training visit.

22 5. RELATED OBLIGATIONS.

23 A. Title/Indemnity: Customer warrants title to all gas delivered to  
24 LBGO on behalf of Customer, except gas purchased pursuant to Section 3(H).  
25 Customer shall indemnify and hold harmless LBGO and SoCalGas from and against  
26 any and all claims, actions, liabilities, taxes, royalties, liens, charges, damages or  
27 costs (including reasonable attorneys' fees for in-house or outside counsel) related  
28 to gas delivered or failed to be delivered to the allocation points which have been

1 nominated and confirmed with LBGO and SoCalGas hereunder, except for claims  
2 arising out of the gross negligence of LBGO or SoCalGas. The foregoing sentence  
3 does not apply to gas purchased by Customer pursuant to Section 3(H) except as it  
4 relates to payment for the commodity, taxes, charges and related services, and the  
5 payment of attorneys' fees for collection actions.

6 B. Replacement of Gas: LBGO shall have no obligation to notify  
7 Customer or to replace or substitute for Customer any quantities of gas not delivered  
8 to SoCalGas or accepted by SoCalGas in connection with this Agreement, except  
9 gas purchased pursuant to Section 3(H).

10 C. Assignment of Rights and Obligations: The rights and  
11 obligations under this Agreement shall not be assigned by either party without the  
12 prior written consent of the other party, which consent may be withheld at the sole  
13 discretion of LBGO.

14 D. Failure of Third Parties: Customer shall pay any costs incurred  
15 by LBGO because of any failure by third parties, acting as agents for Customer, to  
16 perform their obligations related to this Agreement (including reasonable attorneys'  
17 fees whether for in-house or outside counsel).

18 E. Third Party Penalties, Taxes and Fees: Any and all penalties,  
19 taxes or other related or similar charges or fees incurred by LBGO or SoCalGas  
20 under an interstate or intrastate supplier contract as a result of this Agreement and  
21 accommodating transportation service shall be paid by the Customer.

22 F. Regulatory Action: This Agreement, rates and conditions are  
23 subject to revision and modification as a result of legislative or regulatory action,  
24 including CPUC and/or Federal Energy Regulatory Commission (FERC)  
25 proceedings and orders, including without limitation the proposed Firm Receipt  
26 Point Rights and Off-System Delivery Service.

27 G. Indemnity: Customer agrees to indemnify, defend and hold  
28 harmless LBGO, its officers, agents and employees against any loss, damage,

OFFICE OF THE CITY ATTORNEY  
CHARLES PARKIN, City Attorney  
333 West Ocean Boulevard, 11th Floor  
Long Beach, CA 90802-4664

1 injury, liability and expense arising out of any loss, damage, injury, claim, action,  
2 cause of action or suit brought by any person, association or entity arising out of or  
3 on account of this Agreement, except claims arising from the gross negligence of  
4 LBGO.

5 H. Third Party Charges: Under no circumstances shall LBGO be  
6 liable to any third-party producer, marketer, broker or other supplier of gas under  
7 this Agreement for any portion of the purchase price, including but not limited to the  
8 gas commodity, transportation, tariffs, taxes, fees and surcharges. The Customer  
9 shall be solely responsible for payments to the such third parties, except as provided  
10 in Section 3(H).

11 6. DAMAGES. Except as provided herein, neither party shall be  
12 assessed any special, punitive, consequential, incidental or indirect damages, whether in  
13 contract or tort, for any actions or inactions related to this Agreement or the delivery or non-  
14 delivery of gas, curtailment or transportation thereof.

15 7. AGENT. Customer desires a third party to act on its behalf as  
16 Customer's agent ("Agent"), on and after the date hereof, until revoked by written notice  
17 from Customer received by LBGO. Agent shall have full authority to act for and bind  
18 Customer fully under this Agreement, and LBGO shall be authorized to rely thereon at all  
19 times in dealing with the following Agent:

20  
21 Agent's Name: BP Energy, Neda Hazen  
22 Address: 18101 Van Korman Avenue  
23 Suite 920  
24 Truine, CA 92612  
25 Telephone: 949-251-8696 Extension: 109  
26 Fax No.: \_\_\_\_\_  
27 E-mail Address: Neda.Hazen@BP.COM

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1                   8.     PERSON TO CONTACT AT CUSTOMER'S METER LOCATION  
2 REGARDING OPERATION, SERVICE OR TRANSPORTATION. Customer desires the  
3 following named person to be contacted for inquiries from LBGO regarding service and  
4 transportation of gas or other operational matters (not related to Notice or Billing):

5                   Meter Address:     1850 Picur B Street

6                   City Account No. (if known):     4250729837

7                   Person's Name:     Teri Salcido

8                   Title:     Office Manager

9                   Address:     1850 Picur B Street

10                                     Long Beach, CA 90813

11                                     \_\_\_\_\_

12                   Telephone:     562-435-4465     Extension:     224

13                   Fax No.:     562-495-3922

14                   E-mail Address:     TMSalcido@NationalGypsum.com

15                   Customers having more than one City gas transport account must complete  
16 the attached Exhibit "B" listing all other gas transport accounts (meters). For billing  
17 purposes, the account listed above shall be considered the "balancing" account.

18                   9.     NOTICE. Any notice, request, demand or statement provided for in  
19 this Agreement shall be in writing and shall be sent to the parties hereto at the following  
20 addresses, and shall be effective upon receipt:

21                   Notice, correspondence and statements:

22     Customer:	LBGO
23 <u>New NGC, Inc. d/b/a</u>	City of Long Beach
24 <u>National Gypsum Company</u>	Gas & Oil Department
25 <u>2001 Rexford Road</u>	2400 E. Spring Street
26 <u>Charlotte, NC 28211</u>	Long Beach, CA 90806-2285
27     Attn: <u>Energy Department</u>	Attn: Energy Service
28     Telephone: <u>704-365-7519</u>	Telephone: (562) 570-2063

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Fax No.: <u>704-365-7225</u> E-Mail Address: <u>Energy@NationalGypsum.com</u>	Fax No.: (562) 499-1088 Email: Renee.Williams@longbeach.gov
Billing (if different from above, state if "same") Customer: <u>Same</u> Attn: _____ Telephone: _____ Fax No.: _____ E-Mail Address: _____	LBGO City of Long Beach Gas & Oil Department 2400 E. Spring Street Long Beach, CA 90806-2285 Attn: Energy Service Telephone: (562) 570-2063 Fax No.: (562) 499-1088 Email: Renee.Williams@longbeach.gov
Operations and Nominations Contact: Customer: <u>National Gypsum Company</u> <u>1850 Pier B Street</u> <u>Long Beach, CA 90813</u> Attn: <u>Teri Salcido</u> Telephone: <u>562-435-4465 ext 224</u> Fax No.: <u>562-495-3922</u> E-Mail Address: <u>TSalcido@nationalgypsum.com</u>	LBGO City of Long Beach Gas & Oil Department 2400 E. Spring Street Long Beach, CA 90806-2285 Attn: Energy Service Telephone: (562) 570-2063 Fax No.: (562) 499-1088 Email: Dennis.Burke@longbeach.gov
Mailing address for correspondence (if different from above): <u>Same</u> Attn: _____	

1           10.   JURISDICTION. This Agreement shall be governed and construed in  
2 accordance with the laws of the State of California.

3           11.   CAPTIONS AND ORGANIZATION. The various headings and  
4 numbers herein and the groupings of the provisions of this Agreement are for the purpose  
5 of convenience only and shall not be considered a part hereof, and shall have no effect on  
6 the construction or interpretation of any part of this Agreement.

7           12.   NON-DISCRIMINATION CLAUSE. In the performance of this  
8 Agreement, Customer shall not discriminate against any person on the basis of race, color,  
9 religion, national origin, gender, sexual orientation, AIDS, AIDS-related condition, age,  
10 marital status, disability or handicap. Customer shall be in compliance with all applicable  
11 provisions of the Americans with Disabilities Act of 1990 (ADA). Compliance with the ADA  
12 shall be the sole and complete responsibility of Customer and Customer shall defend and  
13 hold LBGO harmless from any expense or liability arising from Customer's non-compliance  
14 therewith.

15           13.   ENTIRE AGREEMENT. This Agreement sets forth the entire  
16 understanding of the parties and supersedes any prior understandings or discussions  
17 (whether written or oral) and incorporated herein by reference all Long Beach Municipal  
18 Codes, ordinances and resolutions existing or as amended from time to time. This  
19 Agreement shall only be amended by an instrument in writing properly executed by both  
20 parties or as superseded by changes in the City of Long Beach Municipal Code,  
21 resolutions, ordinances or other applicable rules and regulations.

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1 IN WITNESS WHEREOF, the parties have caused this document to be duly  
2 executed with all formalities required by law as of the date first stated above.

3 NEW NGC, INC. DBA NATIONAL  
4 GYPSUM COMPANY, a Delaware  
5 corporation

6 June 28, 2017

By George W. Beckwith  
Name **George W. Beckwith**  
Title **Vice President & CFO**

7  
8 June 28, 2017

By John M. Corsi  
Name John M. Corsi  
Title VP, Manufacturing

9  
10 "Customer"

11 CITY OF LONG BEACH, a municipal  
12 corporation

13 Aug 7, 2017

By T. Bell  
City Manager  
"City" Tam Modico  
Assistant City Manager

EXECUTED PURSUANT  
TO SECTION 301 OF  
THE CITY CHARTER.

14  
15 This Agreement is approved as to form on August 1, 2017.

16  
17 CHARLES PARKIN, City Attorney

18 By [Signature]  
19 Deputy

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OFFICE OF THE CITY ATTORNEY  
CHARLES PARKIN, City Attorney  
333 West Ocean Boulevard, 11th Floor  
Long Beach, CA 90802-4664