

(Local Currency—Single Jurisdiction)

32637

ISDA[®]

International Swap Dealers Association, Inc.

MASTER AGREEMENT

dated as of March 26, 2012

J. ARON & COMPANY and CITY OF LONG BEACH

have entered and/or anticipate entering into one or more transactions (each a "Transaction") that are or will be governed by this Master Agreement, which includes the schedule (the "Schedule"), and the documents and other confirming evidence (each a "Confirmation") exchanged between the parties confirming those Transactions.

Accordingly, the parties agree as follows: —

1. Interpretation

- (a) **Definitions.** The terms defined in Section 12 and in the Schedule will have the meanings therein specified for the purpose of this Master Agreement.
- (b) **Inconsistency.** In the event of any inconsistency between the provisions of the Schedule and the other provisions of this Master Agreement, the Schedule will prevail. In the event of any inconsistency between the provisions of any Confirmation and this Master Agreement (including the Schedule), such Confirmation will prevail for the purpose of the relevant Transaction.
- (c) **Single Agreement.** All Transactions are entered into in reliance on the fact that this Master Agreement and all Confirmations form a single agreement between the parties (collectively referred to as this "Agreement"), and the parties would not otherwise enter into any Transactions.

2. Obligations

- (a) **General Conditions.**
 - (i) Each party will make each payment or delivery specified in each Confirmation to be made by it, subject to the other provisions of this Agreement.
 - (ii) Payments under this Agreement will be made on the due date for value on that date in the place of the account specified in the relevant Confirmation or otherwise pursuant to this Agreement, in freely transferable funds and in the manner customary for payments in the required currency. Where settlement is by delivery (that is, other than by payment), such delivery will be made for receipt on the due date in the manner customary for the relevant obligation unless otherwise specified in the relevant Confirmation or elsewhere in this Agreement.
 - (iii) Each obligation of each party under Section 2(a)(i) is subject to (1) the condition precedent that no Event of Default or Potential Event of Default with respect to the other party has occurred and is continuing, (2) the condition precedent that no Early Termination Date in respect of the relevant Transaction has occurred or been effectively designated and (3) each other applicable condition precedent specified in this Agreement.

(b) *Change of Account.* Either party may change its account for receiving a payment or delivery by giving notice to the other party at least five Local Business Days prior to the scheduled date for the payment or delivery to which such change applies unless such other party gives timely notice of a reasonable objection to such change.

(c) *Netting.* If on any date amounts would otherwise be payable: —

- (i) in the same currency; and
- (ii) in respect of the same Transaction,

by each party to the other, then, on such date, each party's obligation to make payment of any such amount will be automatically satisfied and discharged and, if the aggregate amount that would otherwise have been payable by one party exceeds the aggregate amount that would otherwise have been payable by the other party, replaced by an obligation upon the party by whom the larger aggregate amount would have been payable to pay to the other party the excess of the larger aggregate amount over the smaller aggregate amount.

The parties may elect in respect of two or more Transactions that a net amount will be determined in respect of all amounts payable on the same date in the same currency in respect of such Transactions, regardless of whether such amounts are payable in respect of the same Transaction. The election may be made in the Schedule or a Confirmation by specifying that subparagraph (ii) above will not apply to the Transactions identified as being subject to the election, together with the starting date (in which case subparagraph (ii) above will not, or will cease to, apply to such Transactions from such date). This election may be made separately for different groups of Transactions and will apply separately to each pairing of branches or offices through which the parties make and receive payments or deliveries.

(d) *Default Interest; Other Amounts.* Prior to the occurrence or effective designation of an Early Termination Date in respect of the relevant Transaction, a party that defaults in the performance of any payment obligation will, to the extent permitted by law and subject to Section 6(c), be required to pay interest (before as well as after judgment) on the overdue amount to the other party on demand in the same currency as such overdue amount, for the period from (and including) the original due date for payment to (but excluding) the date of actual payment, at the Default Rate. Such interest will be calculated on the basis of daily compounding and the actual number of days elapsed. If, prior to the occurrence or effective designation of an Early Termination Date in respect of the relevant Transaction, a party defaults in the performance of any obligation required to be settled by delivery, it will compensate the other party on demand if and to the extent provided for in the relevant Confirmation or elsewhere in this Agreement.

3. Representations

Each party represents to the other party (which representations will be deemed to be repeated by each party on each date on which a Transaction is entered into) that:—

(a) *Basic Representations.*

(i) *Status.* It is duly organised and validly existing under the laws of the jurisdiction of its organisation or incorporation and, if relevant under such laws, in good standing;

(ii) *Powers.* It has the power to execute this Agreement and any other documentation relating to this Agreement to which it is a party, to deliver this Agreement and any other documentation relating to this Agreement that it is required by this Agreement to deliver and to perform its obligations under this Agreement and any obligations it has under any Credit Support Document to which it is a party and has taken all necessary action to authorise such execution, delivery and performance;

(iii) *No Violation or Conflict.* Such execution, delivery and performance do not violate or conflict with any law applicable to it, any provision of its constitutional documents, any order or judgment of any court or other agency of government applicable to it or any of its assets or any contractual restriction binding on or affecting it or any of its assets;

(iv) *Consents*. All governmental and other consents that are required to have been obtained by it with respect to this Agreement or any Credit Support Document to which it is a party have been obtained and are in full force and effect and all conditions of any such consents have been complied with; and

(v) *Obligations Binding*. Its obligations under this Agreement and any Credit Support Document to which it is a party constitute its legal, valid and binding obligations, enforceable in accordance with their respective terms (subject to applicable bankruptcy, reorganisation, insolvency, moratorium or similar laws affecting creditors' rights generally and subject, as to enforceability, to equitable principles of general application (regardless of whether enforcement is sought in a proceeding in equity or at law)).

(b) *Absence of Certain Events*. No Event of Default or Potential Event of Default or, to its knowledge, Termination Event with respect to it has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or performing its obligations under this Agreement or any Credit Support Document to which it is a party.

(c) *Absence of Litigation*. There is not pending or, to its knowledge, threatened against it or any of its Affiliates any action, suit or proceeding at law or in equity or before any court, tribunal, governmental body, agency or official or any arbitrator that is likely to affect the legality, validity or enforceability against it of this Agreement or any Credit Support Document to which it is a party or its ability to perform its obligations under this Agreement or such Credit Support Document.

(d) *Accuracy of Specified information*. All applicable information that is furnished in writing by or on behalf of it to the other party and is identified for the purpose of this Section 3(d) in the Schedule is, as of the date of the information, true, accurate and complete in every material respect.

4. Agreements

Each party agrees with the other that, so long as either party has or may have any obligation under this Agreement or under any Credit Support Document to which it is a party:—

(a) *Furnish Specified Information*. It will deliver to the other party any forms, documents or certificates specified in the Schedule or any Confirmation by the date specified in the Schedule or such Confirmation or, if none is specified, as soon as reasonably practicable.

(b) *Maintain Authorisations*. It will use all reasonable efforts to maintain in full force and effect all consents of any governmental or other authority that are required to be obtained by it with respect to this Agreement or any Credit Support Document to which it is a party and will use all reasonable efforts to obtain any that may become necessary in the future.

(c) *Comply with Laws*. It will comply in all material respects with all applicable laws and orders to which it may be subject if failure so to comply would materially impair its ability to perform its obligations under this Agreement or any Credit Support Document to which it is a party.

5. Events of Default and Termination Events

(a) *Events of Default*. The occurrence at any time with respect to a party or, if applicable, any Credit Support Provider of such party or any Specified Entity of such party of any of the following events constitutes an event of default (an "Event of Default") with respect to such party:—

(i) *Failure to Pay or Deliver*. Failure by the party to make, when due, any payment under this Agreement or delivery under Section 2(a)(i) or 2(d) required to be made by it if such failure is not remedied on or before the third Local Business Day after notice of such failure is given to the party;

(ii) *Breach of Agreement*. Failure by the party to comply with or perform any agreement or obligation (other than an obligation to make any payment under this Agreement or delivery under Section 2(a)(i) or 2(d) or to give notice of a Termination Event) to be complied with or performed

by the party in accordance with this Agreement if such failure is not remedied on or before the thirtieth day after notice of such failure is given to the party;

(iii) *Credit Support Default.*

(1) Failure by the party or any Credit Support Provider of such party to comply with or perform any agreement or obligation to be complied with or performed by it in accordance with any Credit Support Document if such failure is continuing after any applicable grace period has elapsed;

(2) the expiration or termination of such Credit Support Document or the failing or ceasing of such Credit Support Document to be in full force and effect for the purpose of this Agreement (in either case other than in accordance with its terms) prior to the satisfaction of all obligations of such party under each Transaction to which such Credit Support Document relates without the written consent of the other party; or

(3) the party or such Credit Support Provider disaffirms, disclaims, repudiates or rejects, in whole or in part, or challenges the validity of, such Credit Support Document;

(iv) *Misrepresentation.* A representation made or repeated or deemed to have been made or repeated by the party or any Credit Support Provider of such party in this Agreement or any Credit Support Document proves to have been incorrect or misleading in any material respect when made or repeated or deemed to have been made or repeated;

(v) *Default under Specified Transaction.* The party, any Credit Support Provider of such party or any applicable Specified Entity of such party (1) defaults under a Specified Transaction and, after giving effect to any applicable notice requirement or grace period, there occurs a liquidation of, an acceleration of obligations under, or an early termination of, that Specified Transaction, (2) defaults, after giving effect to any applicable notice requirement or grace period, in making any payment or delivery due on the last payment, delivery or exchange date of, or any payment on early termination of, a Specified Transaction (or such default continues for at least three Local Business Days if there is no applicable notice requirement or grace period) or (3) disaffirms, disclaims, repudiates or rejects, in whole or in part, a Specified Transaction (or such action is taken by any person or entity appointed or empowered to operate it or act on its behalf);

(vi) *Cross Default.* If "Cross Default" is specified in the Schedule as applying to the party, the occurrence or existence of (1) a default, event of default or other similar condition or event (however described) in respect of such party, any Credit Support Provider of such party or any applicable Specified Entity of such party under one or more agreements or instruments relating to Specified Indebtedness of any of them (individually or collectively) in an aggregate amount of not less than the applicable Threshold Amount (as specified in the Schedule) which has resulted in such Specified Indebtedness becoming, or becoming capable at such time of being declared, due and payable under such agreements or instruments, before it would otherwise have been due and payable or (2) a default by such party, such Credit Support Provider or such Specified Entity (individually or collectively) in making one or more payments on the due date thereof in an aggregate amount of not less than the applicable Threshold Amount under such agreements or instruments (after giving effect to any applicable notice requirement or grace period);

(vii) *Bankruptcy.* The party, any Credit Support Provider of such party or any applicable Specified Entity of such party:—

(1) is dissolved (other than pursuant to a consolidation, amalgamation or merger); (2) becomes insolvent or is unable to pay its debts or fails or admits in writing its inability generally to pay its debts as they become due; (3) makes a general assignment, arrangement or composition with or for the benefit of its creditors; (4) institutes or has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights, or a petition is presented for its

winding-up or liquidation, and, in the case of any such proceeding or petition instituted or presented against it, such proceeding or petition (A) results in a judgment of insolvency or bankruptcy or the entry of an order for relief or the making of an order for its winding-up or liquidation or (B) is not dismissed, discharged, stayed or restrained in each case within 30 days of the institution or presentation thereof; (5) has a resolution passed for its winding-up, official management or liquidation (other than pursuant to a consolidation, amalgamation or merger); (6) seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all its assets; (7) has a secured party take possession of all or substantially all its assets or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all its assets and such secured party maintains possession, or any such process is not dismissed, discharged, stayed or restrained, in each case within 30 days thereafter; (8) causes or is subject to any event with respect to it which, under the applicable laws of any jurisdiction, has an analogous effect to any of the events specified in clauses (1) to (7) (inclusive); or (9) takes any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the foregoing acts; or

(viii) *Merger Without Assumption*. The party or any Credit Support Provider of such party consolidates or amalgamates with, or merges with or into, or transfers all or substantially all its assets to, another entity and, at the time of such consolidation, amalgamation, merger or transfer:—

- (1) the resulting, surviving or transferee entity fails to assume all the obligations of such party or such Credit Support Provider under this Agreement or any Credit Support Document to which it or its predecessor was a party by operation of law or pursuant to an agreement reasonably satisfactory to the other party to this Agreement; or
- (2) the benefits of any Credit Support Document fail to extend (without the consent of the other party) to the performance by such resulting, surviving or transferee entity of its obligations under this Agreement.

(b) *Termination Events*. The occurrence at any time with respect to a party or, if applicable, any Credit Support Provider of such party or any Specified Entity of such party of any event specified below constitutes an Illegality if the event is specified in (i) below, and, if specified to be applicable, a Credit Event Upon Merger if the event is specified pursuant to (ii) below or an Additional Termination Event if the event is specified pursuant to (iii) below:—

(i) *Illegality*. Due to the adoption of, or any change in, any applicable law after the date on which a Transaction is entered into, or due to the promulgation of, or any change in, the interpretation by any court, tribunal or regulatory authority with competent jurisdiction of any applicable law after such date, it becomes unlawful (other than as a result of a breach by the party of Section 4(b)) for such party (which will be the Affected Party):—

- (1) to perform any absolute or contingent obligation to make a payment or delivery or to receive a payment or delivery in respect of such Transaction or to comply with any other material provision of this Agreement relating to such Transaction; or
- (2) to perform, or for any Credit Support Provider of such party to perform, any contingent or other obligation which the party (or such Credit Support Provider) has under any Credit Support Document relating to such Transaction;

(ii) *Credit Event Upon Merger*. If “Credit Event Upon Merger” is specified in the Schedule as applying to the party, such party (“X”), any Credit Support Provider of X or any applicable Specified Entity of X consolidates or amalgamates with, or merges with or into, or transfers all or substantially all its assets to, another entity and such action does not constitute an event described in Section 5(a)(viii) but the creditworthiness of the resulting, surviving or transferee entity is materially weaker than that of X, such Credit Support Provider or such Specified Entity, as the case may be, immediately prior to such action (and, in such event, X or its successor or transferee, as appropriate, will be the Affected Party); or

(iii) *Additional Termination Event.* If any "Additional Termination Event" is specified in the Schedule or any Confirmation as applying, the occurrence of such event (and, in such event, the Affected Party or Affected Parties shall be as specified for such Additional Termination Event in the Schedule or such Confirmation).

(c) *Event of Default and Illegality.* If an event or circumstance which would otherwise constitute or give rise to an Event of Default also constitutes an Illegality, it will be treated as an Illegality and will not constitute an Event of Default.

6. Early Termination

(a) *Right to Terminate Following Event of Default.* If at any time an Event of Default with respect to a party (the "Defaulting Party") has occurred and is then continuing, the other party (the "Non-defaulting Party") may, by not more than 20 days notice to the Defaulting Party specifying the relevant Event of Default, designate a day not earlier than the day such notice is effective as an Early Termination Date in respect of all outstanding Transactions. If, however, "Automatic Early Termination" is specified in the Schedule as applying to a party, then an Early Termination Date in respect of all outstanding Transactions will occur immediately upon the occurrence with respect to such party of an Event of Default specified in Section 5(a)(vii)(1), (3), (5), (6) or, to the extent analogous thereto, (8), and as of the time immediately preceding the institution of the relevant proceeding or the presentation of the relevant petition upon the occurrence with respect to such party of an Event of Default specified in Section 5(a)(vii)(4) or, to the extent analogous thereto, (8).

(b) *Right to Terminate Following Termination Event.*

(i) *Notice.* If a Termination Event occurs, an Affected Party will, promptly upon becoming aware of it, notify the other party, specifying the nature of that Termination Event and each Affected Transaction and will also give such other information about that Termination Event as the other party may reasonably require.

(ii) *Two Affected Parties.* If an Illegality under Section 5(b)(i)(1) occurs and there are two Affected Parties, each party will use all reasonable efforts to reach agreement within 30 days after notice thereof is given under Section 6(b)(i) on action to avoid that Termination Event.

(iii) *Right to Terminate.* If: —

(1) an agreement under Section 6(b)(ii) has not been effected with respect to all Affected Transactions within 30 days after an Affected Party gives notice under Section 6(b)(i); or

(2) an Illegality other than that referred to in Section 6(b)(ii), a Credit Event Upon Merger or an Additional Termination Event occurs,

either party in the case of an Illegality, any Affected Party in the case of an Additional Termination Event if there is more than one Affected Party, or the party which is not the Affected Party in the case of a Credit Event Upon Merger or an Additional Termination Event if there is only one Affected Party may, by not more than 20 days notice to the other party and provided that the relevant Termination Event is then continuing, designate a day not earlier than the day such notice is effective as an Early Termination Date in respect of all Affected Transactions.

(c) *Effect of Designation.*

(i) If notice designating an Early Termination Date is given under Section 6(a) or (b), the Early Termination Date will occur on the date so designated, whether or not the relevant Event of Default or Termination Event is then continuing.

(ii) Upon the occurrence or effective designation of an Early Termination Date, no further payments or deliveries under Section 2(a)(i) or 2(d) in respect of the Terminated Transactions will be required to be made, but without prejudice to the other provisions of this Agreement. The amount, if any, payable in respect of an Early Termination Date shall be determined pursuant to Section 6(e).

(d) *Calculations.*

(i) *Statement.* On or as soon as reasonably practicable following the occurrence of an Early Termination Date, each party will make the calculations on its part, if any, contemplated by Section 6(e) and will provide to the other party a statement (1) showing, in reasonable detail, such calculations (including all relevant quotations and specifying any amount payable under Section 6(e)) and (2) giving details of the relevant account to which any amount payable to it is to be paid. In the absence of written confirmation from the source of a quotation obtained in determining a Market Quotation, the records of the party obtaining such quotation will be conclusive evidence of the existence and accuracy of such quotation.

(ii) *Payment Date.* An amount calculated as being due in respect of any Early Termination Date under Section 6(e) will be payable on the day that notice of the amount payable is effective (in the case of an Early Termination Date which is designated or occurs as a result of an Event of Default) and on the day which is two Local Business Days after the day on which notice of the amount payable is effective (in the case of an Early Termination Date which is designated as a result of a Termination Event). Such amount will be paid together with (to the extent permitted under applicable law) interest thereon (before as well as after judgment), from (and including) the relevant Early Termination Date to (but excluding) the date such amount is paid, at the Applicable Rate. Such interest will be calculated on the basis of daily compounding and the actual number of days elapsed.

(e) *Payments on Early Termination.* If an Early Termination Date occurs, the following provisions shall apply based on the parties' election in the Schedule of a payment measure, either "Market Quotation" or "Loss", and a payment method, either the "First Method" or the "Second Method". If the parties fail to designate a payment measure or payment method in the Schedule, it will be deemed that "Market Quotation" or the "Second Method", as the case may be, shall apply. The amount, if any, payable in respect of an Early Termination Date and determined pursuant to this Section will be subject to any Set-off.

(i) *Events of Default.* If the Early Termination Date results from an Event of Default:—

(1) *First Method and Market Quotation.* If the First Method and Market Quotation apply, the Defaulting Party will pay to the Non-defaulting Party the excess, if a positive number, of (A) the sum of the Settlement Amount (determined by the Non-defaulting Party) in respect of the Terminated Transactions and the Unpaid Amounts owing to the Non-defaulting Party over (B) the Unpaid Amounts owing to the Defaulting Party.

(2) *First Method and Loss.* If the First Method and Loss apply, the Defaulting Party will pay to the Non-defaulting Party, if a positive number, the Non-defaulting Party's Loss in respect of this Agreement.

(3) *Second Method and Market Quotation.* If the Second Method and Market Quotation apply, an amount will be payable equal to (A) the sum of the Settlement Amount (determined by the Non-defaulting Party) in respect of the Terminated Transactions and the Unpaid Amounts owing to the Non-defaulting Party less (B) the Unpaid Amounts owing to the Defaulting Party. If that amount is a positive number, the Defaulting Party will pay it to the Non-defaulting Party; if it is a negative number, the Non-defaulting Party will pay the absolute value of that amount to the Defaulting Party.

(4) *Second Method and Loss.* If the Second Method and Loss apply, an amount will be payable equal to the Non-defaulting Party's Loss in respect of this Agreement. If that amount is a positive number, the Defaulting Party will pay it to the Non-defaulting Party; if it is a negative

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Accordingly, the parties agree as follows: —

1. Interpretation

- (a) **Definitions.** The terms defined in Section 12 and in the Schedule will have the meanings therein specified for the purpose of this Master Agreement.
- (b) **Inconsistency.** In the event of any inconsistency between the provisions of the Schedule and the other provisions of this Master Agreement, the Schedule will prevail. In the event of any inconsistency between the provisions of any Confirmation and this Master Agreement (including the Schedule), such Confirmation will prevail for the purpose of the relevant Transaction.
- (c) **Single Agreement.** All Transactions are entered into in reliance on the fact that this Master Agreement and all Confirmations form a single agreement between the parties (collectively referred to as this "Agreement"), and the parties would not otherwise enter into any Transactions.

2. Obligations

- (a) **General Conditions.**
 - (i) Each party will make each payment or delivery specified in each Confirmation to be made by it, subject to the other provisions of this Agreement.
 - (ii) Payments under this Agreement will be made on the due date for value on that date in the place of the account specified in the relevant Confirmation or otherwise pursuant to this Agreement, in freely transferable funds and in the manner customary for payments in the required currency. Where settlement is by delivery (that is, other than by payment), such delivery will be made for receipt on the due date in the manner customary for the relevant obligation unless otherwise specified in the relevant Confirmation or elsewhere in this Agreement.
 - (iii) Each obligation of each party under Section 2(a)(i) is subject to (1) the condition precedent that no Event of Default or Potential Event of Default with respect to the other party has occurred and is continuing, (2) the condition precedent that no Early Termination Date in respect of the relevant Transaction has occurred or been effectively designated and (3) each other applicable condition precedent specified in this Agreement.

(b) *Change of Account.* Either party may change its account for receiving a payment or delivery by giving notice to the other party at least five Local Business Days prior to the scheduled date for the payment or delivery to which such change applies unless such other party gives timely notice of a reasonable objection to such change.

(c) *Netting.* If on any date amounts would otherwise be payable: —

- (i) in the same currency; and
- (ii) in respect of the same Transaction,

by each party to the other, then, on such date, each party's obligation to make payment of any such amount will be automatically satisfied and discharged and, if the aggregate amount that would otherwise have been payable by one party exceeds the aggregate amount that would otherwise have been payable by the other party, replaced by an obligation upon the party by whom the larger aggregate amount would have been payable to pay to the other party the excess of the larger aggregate amount over the smaller aggregate amount.

The parties may elect in respect of two or more Transactions that a net amount will be determined in respect of all amounts payable on the same date in the same currency in respect of such Transactions, regardless of whether such amounts are payable in respect of the same Transaction. The election may be made in the Schedule or a Confirmation by specifying that subparagraph (ii) above will not apply to the Transactions identified as being subject to the election, together with the starting date (in which case subparagraph (ii) above will not, or will cease to, apply to such Transactions from such date). This election may be made separately for different groups of Transactions and will apply separately to each pairing of branches or offices through which the parties make and receive payments or deliveries.

(d) *Default Interest; Other Amounts.* Prior to the occurrence or effective designation of an Early Termination Date in respect of the relevant Transaction, a party that defaults in the performance of any payment obligation will, to the extent permitted by law and subject to Section 6(c), be required to pay interest (before as well as after judgment) on the overdue amount to the other party on demand in the same currency as such overdue amount, for the period from (and including) the original due date for payment to (but excluding) the date of actual payment, at the Default Rate. Such interest will be calculated on the basis of daily compounding and the actual number of days elapsed. If, prior to the occurrence or effective designation of an Early Termination Date in respect of the relevant Transaction, a party defaults in the performance of any obligation required to be settled by delivery, it will compensate the other party on demand if and to the extent provided for in the relevant Confirmation or elsewhere in this Agreement.

3. Representations

Each party represents to the other party (which representations will be deemed to be repeated by each party on each date on which a Transaction is entered into) that:—

(a) *Basic Representations.*

(i) *Status.* It is duly organised and validly existing under the laws of the jurisdiction of its organisation or incorporation and, if relevant under such laws, in good standing;

(ii) *Powers.* It has the power to execute this Agreement and any other documentation relating to this Agreement to which it is a party, to deliver this Agreement and any other documentation relating to this Agreement that it is required by this Agreement to deliver and to perform its obligations under this Agreement and any obligations it has under any Credit Support Document to which it is a party and has taken all necessary action to authorise such execution, delivery and performance;

(iii) *No Violation or Conflict.* Such execution, delivery and performance do not violate or conflict with any law applicable to it, any provision of its constitutional documents, any order or judgment of any court or other agency of government applicable to it or any of its assets or any contractual restriction binding on or affecting it or any of its assets;

(iv) *Consents*. All governmental and other consents that are required to have been obtained by it with respect to this Agreement or any Credit Support Document to which it is a party have been obtained and are in full force and effect and all conditions of any such consents have been complied with; and

(v) *Obligations Binding*. Its obligations under this Agreement and any Credit Support Document to which it is a party constitute its legal, valid and binding obligations, enforceable in accordance with their respective terms (subject to applicable bankruptcy, reorganisation, insolvency, moratorium or similar laws affecting creditors' rights generally and subject, as to enforceability, to equitable principles of general application (regardless of whether enforcement is sought in a proceeding in equity or at law)).

(b) *Absence of Certain Events*. No Event of Default or Potential Event of Default or, to its knowledge, Termination Event with respect to it has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or performing its obligations under this Agreement or any Credit Support Document to which it is a party.

(c) *Absence of Litigation*. There is not pending or, to its knowledge, threatened against it or any of its Affiliates any action, suit or proceeding at law or in equity or before any court, tribunal, governmental body, agency or official or any arbitrator that is likely to affect the legality, validity or enforceability against it of this Agreement or any Credit Support Document to which it is a party or its ability to perform its obligations under this Agreement or such Credit Support Document.

(d) *Accuracy of Specified information*. All applicable information that is furnished in writing by or on behalf of it to the other party and is identified for the purpose of this Section 3(d) in the Schedule is, as of the date of the information, true, accurate and complete in every material respect.

4. Agreements

Each party agrees with the other that, so long as either party has or may have any obligation under this Agreement or under any Credit Support Document to which it is a party:—

(a) *Furnish Specified Information*. It will deliver to the other party any forms, documents or certificates specified in the Schedule or any Confirmation by the date specified in the Schedule or such Confirmation or, if none is specified, as soon as reasonably practicable.

(b) *Maintain Authorisations*. It will use all reasonable efforts to maintain in full force and effect all consents of any governmental or other authority that are required to be obtained by it with respect to this Agreement or any Credit Support Document to which it is a party and will use all reasonable efforts to obtain any that may become necessary in the future.

(c) *Comply with Laws*. It will comply in all material respects with all applicable laws and orders to which it may be subject if failure so to comply would materially impair its ability to perform its obligations under this Agreement or any Credit Support Document to which it is a party.

5. Events of Default and Termination Events

(a) *Events of Default*. The occurrence at any time with respect to a party or, if applicable, any Credit Support Provider of such party or any Specified Entity of such party of any of the following events constitutes an event of default (an "Event of Default") with respect to such party:—

(i) *Failure to Pay or Deliver*. Failure by the party to make, when due, any payment under this Agreement or delivery under Section 2(a)(i) or 2(d) required to be made by it if such failure is not remedied on or before the third Local Business Day after notice of such failure is given to the party;

(ii) *Breach of Agreement*. Failure by the party to comply with or perform any agreement or obligation (other than an obligation to make any payment under this Agreement or delivery under Section 2(a)(i) or 2(d) or to give notice of a Termination Event) to be complied with or performed

by the party in accordance with this Agreement if such failure is not remedied on or before the thirtieth day after notice of such failure is given to the party;

(iii) *Credit Support Default.*

(1) Failure by the party or any Credit Support Provider of such party to comply with or perform any agreement or obligation to be complied with or performed by it in accordance with any Credit Support Document if such failure is continuing after any applicable grace period has elapsed;

(2) the expiration or termination of such Credit Support Document or the failing or ceasing of such Credit Support Document to be in full force and effect for the purpose of this Agreement (in either case other than in accordance with its terms) prior to the satisfaction of all obligations of such party under each Transaction to which such Credit Support Document relates without the written consent of the other party; or

(3) the party or such Credit Support Provider disaffirms, disclaims, repudiates or rejects, in whole or in part, or challenges the validity of, such Credit Support Document;

(iv) *Misrepresentation.* A representation made or repeated or deemed to have been made or repeated by the party or any Credit Support Provider of such party in this Agreement or any Credit Support Document proves to have been incorrect or misleading in any material respect when made or repeated or deemed to have been made or repeated;

(v) *Default under Specified Transaction.* The party, any Credit Support Provider of such party or any applicable Specified Entity of such party (1) defaults under a Specified Transaction and, after giving effect to any applicable notice requirement or grace period, there occurs a liquidation of, an acceleration of obligations under, or an early termination of, that Specified Transaction, (2) defaults, after giving effect to any applicable notice requirement or grace period, in making any payment or delivery due on the last payment, delivery or exchange date of, or any payment on early termination of, a Specified Transaction (or such default continues for at least three Local Business Days if there is no applicable notice requirement or grace period) or (3) disaffirms, disclaims, repudiates or rejects, in whole or in part, a Specified Transaction (or such action is taken by any person or entity appointed or empowered to operate it or act on its behalf);

(vi) *Cross Default.* If "Cross Default" is specified in the Schedule as applying to the party, the occurrence or existence of (1) a default, event of default or other similar condition or event (however described) in respect of such party, any Credit Support Provider of such party or any applicable Specified Entity of such party under one or more agreements or instruments relating to Specified Indebtedness of any of them (individually or collectively) in an aggregate amount of not less than the applicable Threshold Amount (as specified in the Schedule) which has resulted in such Specified Indebtedness becoming, or becoming capable at such time of being declared, due and payable under such agreements or instruments, before it would otherwise have been due and payable or (2) a default by such party, such Credit Support Provider or such Specified Entity (individually or collectively) in making one or more payments on the due date thereof in an aggregate amount of not less than the applicable Threshold Amount under such agreements or instruments (after giving effect to any applicable notice requirement or grace period);

(vii) *Bankruptcy.* The party, any Credit Support Provider of such party or any applicable Specified Entity of such party:—

(1) is dissolved (other than pursuant to a consolidation, amalgamation or merger); (2) becomes insolvent or is unable to pay its debts or fails or admits in writing its inability generally to pay its debts as they become due; (3) makes a general assignment, arrangement or composition with or for the benefit of its creditors; (4) institutes or has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights, or a petition is presented for its

winding-up or liquidation, and, in the case of any such proceeding or petition instituted or presented against it, such proceeding or petition (A) results in a judgment of insolvency or bankruptcy or the entry of an order for relief or the making of an order for its winding-up or liquidation or (B) is not dismissed, discharged, stayed or restrained in each case within 30 days of the institution or presentation thereof; (5) has a resolution passed for its winding-up, official management or liquidation (other than pursuant to a consolidation, amalgamation or merger); (6) seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all its assets; (7) has a secured party take possession of all or substantially all its assets or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all its assets and such secured party maintains possession, or any such process is not dismissed, discharged, stayed or restrained, in each case within 30 days thereafter; (8) causes or is subject to any event with respect to it which, under the applicable laws of any jurisdiction, has an analogous effect to any of the events specified in clauses (1) to (7) (inclusive); or (9) takes any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the foregoing acts; or

(viii) *Merger Without Assumption*. The party or any Credit Support Provider of such party consolidates or amalgamates with, or merges with or into, or transfers all or substantially all its assets to, another entity and, at the time of such consolidation, amalgamation, merger or transfer:—

- (1) the resulting, surviving or transferee entity fails to assume all the obligations of such party or such Credit Support Provider under this Agreement or any Credit Support Document to which it or its predecessor was a party by operation of law or pursuant to an agreement reasonably satisfactory to the other party to this Agreement; or
- (2) the benefits of any Credit Support Document fail to extend (without the consent of the other party) to the performance by such resulting, surviving or transferee entity of its obligations under this Agreement.

(b) *Termination Events*. The occurrence at any time with respect to a party or, if applicable, any Credit Support Provider of such party or any Specified Entity of such party of any event specified below constitutes an Illegality if the event is specified in (i) below, and, if specified to be applicable, a Credit Event Upon Merger if the event is specified pursuant to (ii) below or an Additional Termination Event if the event is specified pursuant to (iii) below:—

(i) *Illegality*. Due to the adoption of, or any change in, any applicable law after the date on which a Transaction is entered into, or due to the promulgation of, or any change in, the interpretation by any court, tribunal or regulatory authority with competent jurisdiction of any applicable law after such date, it becomes unlawful (other than as a result of a breach by the party of Section 4(b)) for such party (which will be the Affected Party):—

- (1) to perform any absolute or contingent obligation to make a payment or delivery or to receive a payment or delivery in respect of such Transaction or to comply with any other material provision of this Agreement relating to such Transaction; or
- (2) to perform, or for any Credit Support Provider of such party to perform, any contingent or other obligation which the party (or such Credit Support Provider) has under any Credit Support Document relating to such Transaction;

(ii) *Credit Event Upon Merger*. If “Credit Event Upon Merger” is specified in the Schedule as applying to the party, such party (“X”), any Credit Support Provider of X or any applicable Specified Entity of X consolidates or amalgamates with, or merges with or into, or transfers all or substantially all its assets to, another entity and such action does not constitute an event described in Section 5(a)(viii) but the creditworthiness of the resulting, surviving or transferee entity is materially weaker than that of X, such Credit Support Provider or such Specified Entity, as the case may be, immediately prior to such action (and, in such event, X or its successor or transferee, as appropriate, will be the Affected Party); or

(iii) *Additional Termination Event.* If any "Additional Termination Event" is specified in the Schedule or any Confirmation as applying, the occurrence of such event (and, in such event, the Affected Party or Affected Parties shall be as specified for such Additional Termination Event in the Schedule or such Confirmation).

(c) *Event of Default and Illegality.* If an event or circumstance which would otherwise constitute or give rise to an Event of Default also constitutes an Illegality, it will be treated as an Illegality and will not constitute an Event of Default.

6. Early Termination

(a) *Right to Terminate Following Event of Default.* If at any time an Event of Default with respect to a party (the "Defaulting Party") has occurred and is then continuing, the other party (the "Non-defaulting Party") may, by not more than 20 days notice to the Defaulting Party specifying the relevant Event of Default, designate a day not earlier than the day such notice is effective as an Early Termination Date in respect of all outstanding Transactions. If, however, "Automatic Early Termination" is specified in the Schedule as applying to a party, then an Early Termination Date in respect of all outstanding Transactions will occur immediately upon the occurrence with respect to such party of an Event of Default specified in Section 5(a)(vii)(1), (3), (5), (6) or, to the extent analogous thereto, (8), and as of the time immediately preceding the institution of the relevant proceeding or the presentation of the relevant petition upon the occurrence with respect to such party of an Event of Default specified in Section 5(a)(vii)(4) or, to the extent analogous thereto, (8).

(b) *Right to Terminate Following Termination Event.*

(i) *Notice.* If a Termination Event occurs, an Affected Party will, promptly upon becoming aware of it, notify the other party, specifying the nature of that Termination Event and each Affected Transaction and will also give such other information about that Termination Event as the other party may reasonably require.

(ii) *Two Affected Parties.* If an Illegality under Section 5(b)(i)(1) occurs and there are two Affected Parties, each party will use all reasonable efforts to reach agreement within 30 days after notice thereof is given under Section 6(b)(i) on action to avoid that Termination Event.

(iii) *Right to Terminate.* If: —

(1) an agreement under Section 6(b)(ii) has not been effected with respect to all Affected Transactions within 30 days after an Affected Party gives notice under Section 6(b)(i); or

(2) an Illegality other than that referred to in Section 6(b)(ii), a Credit Event Upon Merger or an Additional Termination Event occurs,

either party in the case of an Illegality, any Affected Party in the case of an Additional Termination Event if there is more than one Affected Party, or the party which is not the Affected Party in the case of a Credit Event Upon Merger or an Additional Termination Event if there is only one Affected Party may, by not more than 20 days notice to the other party and provided that the relevant Termination Event is then continuing, designate a day not earlier than the day such notice is effective as an Early Termination Date in respect of all Affected Transactions.

(c) *Effect of Designation.*

(i) If notice designating an Early Termination Date is given under Section 6(a) or (b), the Early Termination Date will occur on the date so designated, whether or not the relevant Event of Default or Termination Event is then continuing.

(ii) Upon the occurrence or effective designation of an Early Termination Date, no further payments or deliveries under Section 2(a)(i) or 2(d) in respect of the Terminated Transactions will be required to be made, but without prejudice to the other provisions of this Agreement. The amount, if any, payable in respect of an Early Termination Date shall be determined pursuant to Section 6(e).

(d) *Calculations.*

(i) *Statement.* On or as soon as reasonably practicable following the occurrence of an Early Termination Date, each party will make the calculations on its part, if any, contemplated by Section 6(e) and will provide to the other party a statement (1) showing, in reasonable detail, such calculations (including all relevant quotations and specifying any amount payable under Section 6(e)) and (2) giving details of the relevant account to which any amount payable to it is to be paid. In the absence of written confirmation from the source of a quotation obtained in determining a Market Quotation, the records of the party obtaining such quotation will be conclusive evidence of the existence and accuracy of such quotation.

(ii) *Payment Date.* An amount calculated as being due in respect of any Early Termination Date under Section 6(e) will be payable on the day that notice of the amount payable is effective (in the case of an Early Termination Date which is designated or occurs as a result of an Event of Default) and on the day which is two Local Business Days after the day on which notice of the amount payable is effective (in the case of an Early Termination Date which is designated as a result of a Termination Event). Such amount will be paid together with (to the extent permitted under applicable law) interest thereon (before as well as after judgment), from (and including) the relevant Early Termination Date to (but excluding) the date such amount is paid, at the Applicable Rate. Such interest will be calculated on the basis of daily compounding and the actual number of days elapsed.

(e) *Payments on Early Termination.* If an Early Termination Date occurs, the following provisions shall apply based on the parties' election in the Schedule of a payment measure, either "Market Quotation" or "Loss", and a payment method, either the "First Method" or the "Second Method". If the parties fail to designate a payment measure or payment method in the Schedule, it will be deemed that "Market Quotation" or the "Second Method", as the case may be, shall apply. The amount, if any, payable in respect of an Early Termination Date and determined pursuant to this Section will be subject to any Set-off.

(i) *Events of Default.* If the Early Termination Date results from an Event of Default:—

(1) *First Method and Market Quotation.* If the First Method and Market Quotation apply, the Defaulting Party will pay to the Non-defaulting Party the excess, if a positive number, of (A) the sum of the Settlement Amount (determined by the Non-defaulting Party) in respect of the Terminated Transactions and the Unpaid Amounts owing to the Non-defaulting Party over (B) the Unpaid Amounts owing to the Defaulting Party.

(2) *First Method and Loss.* If the First Method and Loss apply, the Defaulting Party will pay to the Non-defaulting Party, if a positive number, the Non-defaulting Party's Loss in respect of this Agreement.

(3) *Second Method and Market Quotation.* If the Second Method and Market Quotation apply, an amount will be payable equal to (A) the sum of the Settlement Amount (determined by the Non-defaulting Party) in respect of the Terminated Transactions and the Unpaid Amounts owing to the Non-defaulting Party less (B) the Unpaid Amounts owing to the Defaulting Party. If that amount is a positive number, the Defaulting Party will pay it to the Non-defaulting Party; if it is a negative number, the Non-defaulting Party will pay the absolute value of that amount to the Defaulting Party.

(4) *Second Method and Loss.* If the Second Method and Loss apply, an amount will be payable equal to the Non-defaulting Party's Loss in respect of this Agreement. If that amount is a positive number, the Defaulting Party will pay it to the Non-defaulting Party; if it is a negative

number, the Non-defaulting Party will pay the absolute value of that amount to the Defaulting Party.

(ii) **Termination Events.** If the Early Termination Date results from a Termination Event:—

(1) *One Affected Party.* If there is one Affected Party, the amount payable will be determined in accordance with Section 6(e)(i)(3), if Market Quotation applies, or Section 6(e)(i)(4), if Loss applies, except that, in either case, references to the Defaulting Party and to the Non-defaulting Party will be deemed to be references to the Affected Party and the party which is not the Affected Party, respectively, and, if Loss applies and fewer than all the Transactions are being terminated, Loss shall be calculated in respect of all Terminated Transactions.

(2) *Two Affected Parties.* If there are two Affected Parties:—

(A) if Market Quotation applies, each party will determine a Settlement Amount in respect of the Terminated Transactions, and an amount will be payable equal to (I) the sum of (a) one-half of the difference between the Settlement Amount of the party with the higher Settlement Amount (“X”) and the Settlement Amount of the party with the lower Settlement Amount (“Y”) and (b) the Unpaid Amounts owing to X less (II) the Unpaid Amounts owing to Y; and

(B) if Loss applies, each party will determine its Loss in respect of this Agreement (or, if fewer than all the Transactions are being terminated, in respect of all Terminated Transactions) and an amount will be payable equal to one-half of the difference between the Loss of the party with the higher Loss (“X”) and the Loss of the party with the lower Loss (“Y”).

If the amount payable is a positive number, Y will pay it to X; if it is a negative number, X will pay the absolute value of that amount to Y.

(iii) *Adjustment for Bankruptcy.* In circumstances where an Early Termination Date occurs because “Automatic Early Termination” applies in respect of a party, the amount determined under this Section 6(e) will be subject to such adjustments as are appropriate and permitted by law to reflect any payments or deliveries made by one party to the other under this Agreement (and retained by such other party) during the period from the relevant Early Termination Date to the date for payment determined under Section 6(d)(ii).

(iv) *Pre-Estimate.* The parties agree that if Market Quotation applies an amount recoverable under this Section 6(e) is a reasonable pre-estimate of loss and not a penalty. Such amount is payable for the loss of bargain and the loss of protection against future risks and except as otherwise provided in this Agreement neither party will be entitled to recover any additional damages as a consequence of such losses.

7. Transfer

Neither this Agreement nor any interest or obligation in or under this Agreement may be transferred (whether by way of security or otherwise) by either party without the prior written consent of the other party, except that:—

(a) a party may make such a transfer of this Agreement pursuant to a consolidation amalgamation with, or merger with or into, or transfer of all or substantially all its assets to, another entity (but without prejudice to any other right or remedy under this Agreement); and

(b) a party may make such a transfer of all or any part of its interest in any amount payable to it from a Defaulting Party under Section 6(e).

Any purported transfer that is not in compliance with this Section will be void

8. Miscellaneous

- (a) **Entire Agreement.** This Agreement constitutes the entire agreement and understanding of the parties with respect to its subject matter and supersedes all oral communication and prior writings with respect thereto.
- (b) **Amendments.** No amendment, modification or waiver in respect of this Agreement will be effective unless in writing (including a writing evidenced by a facsimile transmission) and executed by each of the parties or confirmed by an exchange of telexes or electronic messages on an electronic messaging system.
- (c) **Survival of Obligations.** Without prejudice to Sections 2(a)(iii) and 6(c)(ii), the obligations of the parties under this Agreement will survive the termination of any Transaction.
- (d) **Remedies Cumulative.** Except as provided in this Agreement, the rights, powers, remedies and privileges provided in this Agreement are cumulative and not exclusive of any rights, powers, remedies and privileges provided by law.
- (e) **Counterparts and Confirmations.**
- (i) This Agreement (and each amendment, modification and waiver in respect of it) may be executed and delivered in counterparts (including by facsimile transmission), each of which will be deemed an original.
 - (ii) The parties intend that they are legally bound by the terms of each Transaction from the moment they agree to those terms (whether orally or otherwise). A Confirmation shall be entered into as soon as practicable and may be executed and delivered in counterparts (including by facsimile transmission) or be created by an exchange of telexes or by an exchange of electronic messages on an electronic messaging system, which in each case will be sufficient for all purposes to evidence a binding supplement to this Agreement. The parties will specify therein or through another effective means that any such counterpart, telex or electronic message constitutes a Confirmation.
- (f) **No Waiver of Rights.** A failure or delay in exercising any right, power or privilege in respect of this Agreement will not be presumed to operate as a waiver, and a single or partial exercise of any right, power or privilege will not be presumed to preclude any subsequent or further exercise, of that right, power or privilege or the exercise of any other right, power or privilege.
- (g) **Headings.** The headings used in this Agreement are for convenience of reference only and are not to affect the construction of or to be taken into consideration in interpreting this Agreement.

9. Expenses

A Defaulting Party will, on demand, indemnify and hold harmless the other party for and against all reasonable out-of-pocket expenses, including legal fees, incurred by such other party by reason of the enforcement and protection of its rights under this Agreement or any Credit Support Document to which the Defaulting Party is a party or by reason of the early termination of any Transaction, including, but not limited to, costs of collection.

10. Notices

- (a) **Effectiveness.** Any notice or other communication in respect of this Agreement may be given in any manner set forth below (except that a notice or other communication under Section 5 or 6 may not be given by facsimile transmission or electronic messaging system) to the address or number or in accordance with the electronic messaging system details provided (see the Schedule) and will be deemed effective as indicated:—
- (i) if in writing and delivered in person or by courier, on the date it is delivered;
 - (ii) if sent by telex, on the date the recipient's answerback is received;

(iii) if sent by facsimile transmission, on the date that transmission is received by a responsible employee of the recipient in legible form (it being agreed that the burden of proving receipt will be on the sender and will not be met by a transmission report generated by the sender's facsimile machine);

(iv) if sent by certified or registered mail (airmail, if overseas) or the equivalent (return receipt requested), on the date that mail is delivered or its delivery is attempted; or

(v) if sent by electronic messaging system, on the date that electronic message is received,

unless the date of that delivery (or attempted delivery) or that receipt, as applicable, is not a Local Business Day or that communication is delivered (or attempted) or received, as applicable, after the close of business on a Local Business Day, in which case that communication shall be deemed given and effective on the first following day that is a Local Business Day.

(b) *Change of Addresses.* Either party may by notice to the other change the address, telex or facsimile number or electronic messaging system details at which notices or other communications are to be given to it.

11. Governing Law and Jurisdiction

(a) *Governing Law.* This Agreement will be governed by and construed in accordance with the law specified in the Schedule.

(b) *Jurisdiction.* With respect to any suit, action or proceedings relating to this Agreement ("Proceedings"), each party irrevocably: —

(i) submits to the jurisdiction of the English courts, if this Agreement is expressed to be governed by English law, or to the non-exclusive jurisdiction of the courts of the State of New York and the United States District Court located in the Borough of Manhattan in New York City, if this Agreement is expressed to be governed by the laws of the State of New York; and

(ii) waives any objection which it may have at any time to the laying of venue of any Proceedings brought in any such court, waives any claim that such Proceedings have been brought in an inconvenient forum and further waives the right to object, with respect to such Proceedings, that such court does not have any jurisdiction over such party.

Nothing in this Agreement precludes either party from bringing Proceedings in any other jurisdiction (outside, if this Agreement is expressed to be governed by English law, the Contracting States, as defined in Section 1(3) of the Civil Jurisdiction and Judgments Act 1982 or any modification, extension or re-enactment thereof for the time being in force) nor will the bringing of Proceedings in any one or more jurisdictions preclude the bringing of Proceedings in any other jurisdiction.

(c) *Waiver of Immunities.* Each party irrevocably waives, to the fullest extent permitted by applicable law, with respect to itself and its revenues and assets (irrespective of their use or intended use), all immunity on the grounds of sovereignty or other similar grounds from (i) suit, (ii) jurisdiction of any court, (iii) relief by way of injunction, order for specific performance or for recovery of property, (iv) attachment of its assets (whether before or after judgment) and (v) execution or enforcement of any judgment to which it or its revenues or assets might otherwise be entitled in any Proceedings in the courts of any jurisdiction and irrevocably agrees, to the extent permitted by applicable law, that it will not claim any such immunity in any Proceedings.

12. Definitions

As used in this Agreement:—

"*Additional Termination Event*" has the meaning specified in Section 5(b).

"*Affected Party*" has the meaning specified in Section 5(b).

"Affected Transactions" means (a) with respect to any Termination Event consisting of an Illegality, all Transactions affected by the occurrence of such Termination Event and (b) with respect to any other Termination Event, all Transactions.

"Affiliate" means, subject to the Schedule, in relation to any person, any entity controlled, directly or indirectly, by the person, any entity that controls, directly or indirectly, the person or any entity directly or indirectly under common control with the person. For this purpose, "control" of any entity or person means ownership of a majority of the voting power of the entity or person.

"Applicable Rate" means:—

- (a) in respect of obligations payable or deliverable (or which would have been but for Section 2(a)(iii)) by a Defaulting Party, the Default Rate;
- (b) in respect of an obligation to pay an amount under Section 6(e) of either party from and after the date (determined in accordance with Section 6(d)(ii)) on which that amount is payable, the Default Rate;
- (c) in respect of all other obligations payable or deliverable (or which would have been but for Section 2(a)(iii)) by a Non-defaulting Party, the Non-default Rate; and
- (d) in all other cases, the Termination Rate.

"consent" includes a consent, approval, action, authorisation, exemption, notice, filing, registration or exchange control consent.

"Credit Event Upon Merger" has the meaning specified in Section 5(b).

"Credit Support Document" means any agreement or instrument that is specified as such in this Agreement.

"Credit Support Provider" has the meaning specified in the Schedule.

"Default Rate" means a rate per annum equal to the cost (without proof or evidence of any actual cost) to the relevant payee (as certified by it) if it were to fund or of funding the relevant amount plus 1% per annum.

"Defaulting Party" has the meaning specified in Section 6(a).

"Early Termination Date" means the date determined in accordance with Section 6(a) or 6(b)(iii).

"Event of Default" has the meaning specified in Section 5(a) and, if applicable, in the Schedule.

"Illegality" has the meaning specified in Section 5(b).

"law" includes any treaty, law, rule or regulation and **"lawful"** and **"unlawful"** will be construed accordingly.

"Local Business Day" means, subject to the Schedule, a day on which commercial banks are open for business (including dealings in foreign exchange and foreign currency deposits) (a) in relation to any obligation under Section 2(a)(i), in the place(s) specified in the relevant Confirmation or, if not so specified, as otherwise agreed by the parties in writing or determined pursuant to provisions contained, or incorporated by reference, in this Agreement, (b) in relation to any other payment, in the place where the relevant account is located, (c) in relation to any notice or other communication, including notice contemplated under Section 5(a)(i), in the city specified in the address for notice provided by the recipient and, in the case of a notice contemplated by Section 2(b), in the place where the relevant new account is to be located and (d) in relation to Section 5(a)(v)(2), in the relevant locations for performance with respect to such Specified Transaction.

"Loss" means, with respect to this Agreement or one or more Terminated Transactions, as the case may be, and a party, an amount that party reasonably determines in good faith to be its total losses and costs (or gain, in which case expressed as a negative number) in connection with this Agreement or that Terminated Transaction or group of Terminated Transactions, as the case may be, including any loss of bargain, cost of funding or, at the election of such party but without duplication, loss or cost incurred as a result of its terminating, liquidating, obtaining or reestablishing any hedge or related trading position (or any gain

resulting from any of them). Loss includes losses and costs (or gains) in respect of any payment or delivery required to have been made (assuming satisfaction of each applicable condition precedent) on or before the relevant Early Termination Date and not made, except, so as to avoid duplication, if Section 6(e)(i)(1) or (3) or 6(e)(ii)(2)(A) applies. Loss does not include a party's legal fees and out-of-pocket expenses referred to under Section 9. A party will determine its Loss as of the relevant Early Termination Date, or, if that is not reasonably practicable, as of the earliest date thereafter as is reasonably practicable. A party may (but need not) determine its Loss by reference to quotations of relevant rates or prices from one or more leading dealers in the relevant markets.

"Market Quotation" means, with respect to one or more Terminated Transactions and a party making the determination, an amount determined on the basis of quotations from Reference Market-makers. Each quotation will be for an amount, if any, that would be paid to such party (expressed as a negative number) or by such party (expressed as a positive number) in consideration of an agreement between such party (taking into account any existing Credit Support Document with respect to the obligations of such party) and the quoting Reference Market-maker to enter into a transaction (the "Replacement Transaction") that would have the effect of preserving for such party the economic equivalent of any payment or delivery (whether the underlying obligation was absolute or contingent and assuming the satisfaction of each applicable condition precedent) by the parties under Section 2(a)(i) in respect of such Terminated Transaction or group of Terminated Transactions that would, but for the occurrence of the relevant Early Termination Date, have been required after that date. For this purpose, Unpaid Amounts in respect of the Terminated Transaction or group of Terminated Transactions are to be excluded but, without limitation, any payment or delivery that would, but for the relevant Early Termination Date, have been required (assuming satisfaction of each applicable condition precedent) after that Early Termination Date is to be included. The Replacement Transaction would be subject to such documentation as such party and the Reference Market-maker may, in good faith, agree. The party making the determination (or its agent) will request each Reference Market-maker to provide its quotation to the extent reasonably practicable as of the same day and time (without regard to different time zones) on or as soon as reasonably practicable after the relevant Early Termination Date. The day and time as of which those quotations are to be obtained will be selected in good faith by the party obliged to make a determination under Section 6(e), and, if each party is so obliged, after consultation with the other. If more than three quotations are provided, the Market Quotation will be the arithmetic mean of the quotations, without regard to the quotations having the highest and lowest values. If exactly three such quotations are provided, the Market Quotation will be the quotation remaining after disregarding the highest and lowest quotations. For this purpose, if more than one quotation has the same highest value or lowest value, then one of such quotations shall be disregarded. If fewer than three quotations are provided, it will be deemed that the Market Quotation in respect of such Terminated Transaction or group of Terminated Transactions cannot be determined.

"Non-default Rate" means a rate per annum equal to the cost (without proof or evidence of any actual cost) to the Non-defaulting Party (as certified by it) if it were to fund the relevant amount.

"Non-defaulting Party" has the meaning specified in Section 6(a).

"Potential Event of Default" means any event which, with the giving of notice or the lapse of time or both, would constitute an Event of Default.

"Reference Market-makers" means four leading dealers in the relevant market selected by the party determining a Market Quotation in good faith (a) from among dealers of the highest credit standing which satisfy all the criteria that such party applies generally at the time in deciding whether to offer or to make an extension of credit and (b) to the extent practicable, from among such dealers having an office in the same city.

"Scheduled Payment Date" means a date on which a payment or delivery is to be made under Section 2(a)(i) with respect to a Transaction.

"Set-off" means set-off, offset, combination of accounts, right of retention or withholding or similar right or requirement to which the payer of an amount under Section 6 is entitled or subject (whether arising under

this Agreement, another contract, applicable law or otherwise) that is exercised by, or imposed on, such payer.

"Settlement Amount" means, with respect to a party and any Early Termination Date, the sum of:—

(a) the Market Quotations (whether positive or negative) for each Terminated Transaction or group of Terminated Transactions for which a Market Quotation is determined; and

(b) such party's Loss (whether positive or negative and without reference to any Unpaid Amounts) for each Terminated Transaction or group of Terminated Transactions for which a Market Quotation cannot be determined or would not (in the reasonable belief of the party making the determination) produce a commercially reasonable result.

"Specified Entity" has the meaning specified in the Schedule.

"Specified Indebtedness" means, subject to the Schedule, any obligation (whether present or future, contingent or otherwise, as principal or surety or otherwise) in respect of borrowed money.

"Specified Transaction" means, subject to the Schedule, (a) any transaction (including an agreement with respect thereto) now existing or hereafter entered into between one party to this Agreement (or any Credit Support Provider of such party or any applicable Specified Entity of such party) and the other party to this Agreement (or any Credit Support Provider of such other party or any applicable Specified Entity of such other party) which is a rate swap transaction, basis swap, forward rate transaction, commodity swap, commodity option, equity or equity index swap, equity or equity index option, bond option, interest rate option, foreign exchange transaction, cap transaction, floor transaction, collar transaction, currency swap transaction, cross-currency rate swap transaction, currency option or any other similar transaction (including any option with respect to any of these transactions), (b) any combination of these transactions and (c) any other transaction identified as a Specified Transaction in this Agreement or the relevant confirmation.

"Terminated Transactions" means with respect to any Early Termination Date (a) if resulting from a Termination Event, all Affected Transactions and (b) if resulting from an Event of Default, all Transactions (in either case) in effect immediately before the effectiveness of the notice designating that Early Termination Date (or, if "Automatic Early Termination" applies, immediately before that Early Termination Date).

"Termination Event" means an Illegality or, if specified to be applicable, a Credit Event Upon Merger or an Additional Termination Event.

"Termination Rate" means a rate per annum equal to the arithmetic mean of the cost (without proof or evidence of any actual cost) to each party (as certified by such party) if it were to fund or of funding such amounts.

"Unpaid Amounts" owing to any party means, with respect to an Early Termination Date, the aggregate of (a) in respect of all Terminated Transactions, the amounts that became payable (or that would have become payable but for Section 2(a)(iii)) to such party under Section 2(a)(i) on or prior to such Early Termination Date and which remain unpaid as at such Early Termination Date and (b) in respect of each Terminated Transaction, for each obligation under Section 2(a)(i) which was (or would have been but for Section 2(a)(iii)) required to be settled by delivery to such party on or prior to such Early Termination Date and which has not been so settled as at such Early Termination Date, an amount equal to the fair market value of that which was (or would have been) required to be delivered as of the originally scheduled date for delivery, in each case together with (to the extent permitted under applicable law) interest, in the currency of such amounts, from (and including) the date such amounts or obligations were or would have been required to have been paid or performed to (but excluding) such Early Termination Date, at the Applicable Rate. Such amounts of interest will be calculated on the basis of daily compounding and the actual number of days elapsed. The fair market value of any obligation referred to in clause (b) above shall be reasonably determined

by the party obliged to make the determination under Section 6(e) or, if each party is so obliged, it shall be the average of the fair market values reasonably determined by both parties.

IN WITNESS WHEREOF the parties have executed this document on the respective dates specified below with effect from the date specified on the first page of this document.

..... J. ARON & COMPANY
(Name of Party)

gm

..... CITY OF LONG BEACH
(Name of Party)

By: *SR*
Name: Susan Rudov
Title: Attorney In Fact
Date: March 30 2012

By: *[Signature]* **Assistant City Manager**
Name: Patrick H. West
Title: City Manager
Date: 4/11/12
EXECUTED PURSUANT
TO SECTION 301 OF
THE CITY CHARTER.

APPROVED AS TO FORM

4.5, 20 *12*
ROBERT E. SHANNON, City Attorney
By: *[Signature]*
RICHARD ANTHONY
DEPUTY CITY ATTORNEY

SCHEDULE
to the
ISDA MASTER AGREEMENT
dated as of
March 26, 2012

between

J. ARON & COMPANY,
a general partnership organized under the laws of the State of New York
(“Aron”),

and

City of Long Beach

a California municipal entity
(“Counterparty”).

Part 1. Termination Provisions

(a) **“Specified Entity”**

(i) means, in relation to Aron, Goldman Sachs Bank USA, Goldman, Sachs & Co., Goldman Sachs International, Goldman Sachs Japan Co., Ltd., Goldman Sachs International Bank, Goldman Sachs (Asia) Finance, Goldman Sachs Financial Markets, L.P., Goldman Sachs Paris Inc. et Cie, Goldman Sachs Mitsui Marine Derivative Products, L.P., Goldman Sachs AG and J. Aron & Company (Singapore) Pte. for the purpose of Section 5(a)(v), and shall not apply for purposes of Sections 5(a)(vi), 5(a)(vii) and 5(b)(ii); and

(ii) means, in relation to Counterparty, not applicable

(b) **“Specified Transaction”**. The term “Specified Transaction” in Section 12 of the Agreement is amended in its entirety as follows:

“Specified Transaction” means, subject to the Schedule, (a) any transaction (including an agreement with respect thereto) now existing or hereafter entered into between one party to this Agreement (or any Credit Support Provider of such party or any applicable Specified Entity of such party) and the other party to this Agreement (or any Credit Support Provider of such other party or any applicable Specified Entity of such other party) (i) which is a rate swap transaction, swap option, basis swap, forward rate transaction, commodity swap, commodity option, commodity spot transaction, equity or equity index swap, equity or equity index option, interest rate option, foreign exchange transaction, cap transaction, floor transaction, collar transaction, currency swap transaction, cross-currency rate swap transaction, currency option, weather swap, weather derivative, weather option, credit protection transaction, credit swap, credit default swap, credit default option, total return swap, credit spread transaction, repurchase transaction, reverse repurchase transaction, buy/sell-back transaction, securities lending transaction, or forward purchase or sale of a security, commodity or other financial instrument or interest (including any option with respect to any of these transactions) or (ii) which is a type of transaction that is

similar to any transaction referred to in clause (i) that is currently, or in the future becomes, recurrently entered into the financial markets (including terms and conditions incorporated by reference in such agreement) and that is a forward, swap, future, option or other derivative on one or more rates, currencies, commodities, equity securities or other equity instruments, debt securities or other debt instruments, or economic indices or measures of economic risk or value, (b) any combination of these transactions and (c) any other transaction identified as a Specified Transaction in this agreement or the relevant confirmation.”

- (c) The “**Cross Default**” provisions of Section 5(a)(vi) will apply to Aron and will apply to Counterparty, provided that (i) the phrase “or becoming capable at such time of being declared” shall be deleted from clause (1) of such Section 5(a)(vi); and (ii) the following language shall be added to the end thereof: “Notwithstanding the foregoing, a default under subsection (2) hereof shall not constitute an Event of Default if (i) the default was caused solely by error or omission of an administrative or operational nature; (ii) funds were available to enable the party to make the payment when due; and (iii) the payment is made within two Local Business Days of such party’s receipt of written notice of its failure to pay.”

“**Specified Indebtedness**” will have the meaning specified in Section 12 of the Agreement.

“**Threshold Amount**” means (A) in relation to Aron, US\$50,000,000 and (B) in relation to Counterparty, U.S.\$50,000,000.

- (d) Section 5(b)(ii) is hereby amended by deleting it in its entirety and replacing it with the following:

Credit Event Upon Merger. If “Credit Event Upon Merger” is specified in the Schedule as applying to the party, such party (“X”), any Credit Support Provider of X or any applicable Specified Entity of X consolidates or amalgamates with, or merges into, or transfers all or substantially all its assets (or, in the case of Counterparty, all or substantially all of the project, program or other enterprise from which the funds specified in Section 4(f) are derived in whole or in part) to (or, without limiting the foregoing, with respect to Counterparty, an entity such as an organization, board, commission, authority, agency or body succeeds to the principal functions of, or powers and duties granted to, Counterparty or any Credit Support Provider of Counterparty or any applicable Specified Entity of Counterparty generally, or with respect to the project, program or other enterprise from which the funds specified in Section 4(f) are derived in whole or in part), another entity and such action does not constitute an event described in Section 5(a)(viii) but the creditworthiness of X, such Credit Support Provider, or such Specified Entity (as the case may be) or any resulting, surviving or transferee entity is materially weaker than that of X, such Credit Support Provider, or such Specified Entity, as the case may be, immediately prior to such action (and, in such event, X or its successor or transferee, as appropriate, will be the Affected Party); or

- (e) The “**Credit Event Upon Merger**” provisions of Section 5(b)(ii) as amended will apply to Aron and will apply to Counterparty.
- (f) The “**Automatic Early Termination**” provision of Section 6(a) will not apply to Aron and will not apply to Counterparty.
- (g) **Payments on Early Termination.** For the purpose of Section 6(e):
 - (i) Loss will apply.

- (ii) The Second Method will apply.
- (h) The parties agree to amend the following subsections of Section 5(a) as follows:
- (i) clause (i): in the third line of this clause, delete the word “third” and insert the word “first;”
 - (ii) clause (ii): in the fifth line of this clause, delete the word “thirtieth” and insert the word “fifth;”
 - (iii) clause (vii)(4): delete, following the word “liquidation” in line 9, the clause beginning with “and, in the case of” and ending with the word “thereof” in line 13; clause (vii)(6): add to the end thereof the following: “or, in the case of Counterparty, (A) there shall be appointed or designated with respect to it, an entity such as an organization, board, commission, authority, agency or body to monitor, review, oversee, recommend or declare a financial emergency or similar state of financial distress with respect to it or (B) there shall be declared or introduced or proposed for consideration by it or by any legislative or regulatory body with competent jurisdiction over it, the existence of a state of financial emergency or similar state of financial distress in respect of it;”; and clause (vii)(7): delete, following the word “assets” in line 19, the clause beginning with “and such secured party” and ending with the word “thereafter” in line 21, to eliminate the 30-day grace period; and
 - (iv) clause (viii): add, following the word “entity” in line 3 of the introductory paragraph: “or, with respect to Counterparty, an entity such as an organization, board, commission, authority, agency or body succeeds to the principal functions of, or powers and duties granted to, Counterparty or any Credit Support Provider of Counterparty generally, or with respect to the funds specified in Section 4(f) or the project, program or other enterprise from which such funds are derived in whole or in part”; and add the following new clause (viii)(3): “In the case of Counterparty, the sources of payment for the obligations of Counterparty as set forth in Section 4(f) are no longer available for the satisfaction of such resulting, surviving, transferee or successor entity’s obligations to the other party hereto.”
- (i) **Additional Termination Event** will apply. It will constitute an Additional Termination Event hereunder upon the occurrence of any of the following events:

Either Aron’s Credit Support Provider or Counterparty fails to maintain a Rating of at least BBB- by S&P, and (b) Either Aron’s Credit Support Provider or Counterparty fails to maintain a Rating of at least Baa3 by Moody’s, or (c) Aron’s Credit Support Provider or Counterparty (i) ceases to be assigned a Rating by S&P, or (ii) ceases to be assigned a Rating by Moody’s.

For the purpose of the foregoing Termination Event, both Aron and Counterparty shall be Affected Parties solely for purposes of Section 6(e) and Aron shall be the sole Affected Party for all other purposes under this Agreement.

As used herein, the following terms shall have the meaning set forth below:

“Moody’s” means Moody’s Investor’s Service, Inc., including any official successor to Moody’s.

“Rating” means with respect to Aron, the rating assigned by either S&P or Moody’s, as applicable, to the long-term, senior, unsecured, unsubordinated indebtedness of Aron’s Credit Support Provider and means with respect to Counterparty, the rating assigned by either S&P or Moody’s, as applicable, to the long-term, senior, unsecured, unsubordinated indebtedness of Counterparty’s Gas Revenue Fund

“S&P” means Standard and Poor’s Rating Group, a division of McGraw-Hill, Inc., including any official successor to S&P.

Part 2. Agreement to Deliver Documents

(a) The documents to be delivered are:

Party required to deliver	Form/Document/Certificate	Date by which to be delivered	Covered by Section 3(d) Representation
Aron	Evidence of authority of signatories	Upon or promptly following execution of this Agreement	Yes
Aron and Counterparty	Any Credit Support Document specified in Part 4(c) herein	Upon execution of this Agreement	No
Aron and Counterparty	Most recent annual audited and quarterly financial statements of the party or, with respect to Aron, its Credit Support Provider	Promptly following reasonable demand by the other party	Yes
Counterparty	Legal opinion in the form attached hereto with respect to Counterparty and Credit Support Document	Upon execution of this Agreement	No

Party required to deliver	Form/Document/Certificate	Date by which to be delivered	Covered by Section 3(d) Representation
Counterparty	Certified copies of the council letter and minute order from the excerpt of meeting minutes. authorizing this Agreement and the Transactions contemplated hereby and authorizing a specified person or persons to execute and deliver (as appropriate) on its behalf this Agreement, the exhibits, supplements, and attachments hereto, the documents incorporated by reference herein, and the Confirmations.	At execution of this Agreement and, in the case of amendments, promptly following the time each such amendment is made	Yes
Aron	Certified resolutions of the board of directors or other governing body authorizing this Agreement and the Transactions contemplated hereby and authorizing a specified person or persons to execute and deliver (as appropriate) on its behalf this Agreement, the exhibits, supplements, and attachments hereto, the documents incorporated by reference herein, and the Confirmations hereunder	At execution of this Agreement and, in the case of amendments, promptly following the time each such amendment is made	Yes

Part 4. Miscellaneous

(a) **Addresses for Notices.** For the purpose of Section 10(a):

(i) Address for notices or communications to Aron:

Address: J. Aron & Company
200 West Street
New York, New York 10282-2198
U.S.A.

COMMODITIES

Attention: Commodity Operations
Telephone: (212) 357-0326
Facsimile: (212) 493-9846
Email: jaron@gs.com

FX

Attention: FX Operations
Telephone: (212) 902-2388
Facsimile: (212) 428-3338
Email: Ficc-fx-icon-nyc@ny.email.gs.com

SWAPS

Attention: Swap Administration
Telephone: 212-902-1000
Facsimile: 212-902-5692

(ii) Address for notices or communications to Counterparty:

Address: 2400 E. Spring Street, Long Beach, CA 90806
Attention: Director – City of Long Beach, Gas and Oil Department
Telephone: 562 570 2015
Facsimile: 562-570-2008

(b) **Calculation Agent.** The Calculation Agent is Aron.

(c) **Credit Support Document.** Any guaranty or other form of credit support provided on behalf of Counterparty at any time shall constitute a Credit Support Document with respect to the obligations of Counterparty. Details of any other Credit Support Document, each of which is incorporated by reference in, and made part of, this Agreement and each Confirmation (unless

provided otherwise in a Confirmation) as if set forth in full in this Agreement or such Confirmation:

- (i) Guaranty by The Goldman Sachs Group, Inc. ("Goldman Group") in favor of Counterparty as beneficiary thereof shall constitute a Credit Support Document with respect to the obligations of Aron.
 - (ii) Credit Support Annex dated the date hereof between Aron and Counterparty shall constitute a Credit Support Document with respect to the obligations of Counterparty and Aron.
- (d) **Credit Support Provider.**
- Credit Support Provider means in relation to Aron, Goldman Group.
- Credit Support Provider means in relation to Counterparty, not applicable.
- (e) **Governing Law.** Section 11(a) is hereby replaced with the following:
- (a) **Governing Law.** This Agreement and each Transaction entered into hereunder will be governed by, and construed and enforced in accordance with, the law of the State of New York without reference to its choice of law doctrine.
- (f) **Jurisdiction.** Section 11(b) is hereby amended by:
- (i) deleting in the second line of subparagraph (i) thereof the word "non-"; and
 - (ii) deleting the final paragraph thereof.
- (g) **Netting of Payments.** Subparagraph (ii) of Section 2(c) will not apply to Transactions. Notwithstanding anything to the contrary in Section 2(c), unless otherwise expressly agreed by the parties, the netting provided for in Section 2(c) will not apply separately to any pairings of branches or Offices through which the parties make and receive payments or deliveries.

Part 5. Other Provisions

- (a) **Accuracy of Specified Information.** Section 3(d) is hereby amended by adding in the third line thereof after the word "respect" and before the period, the phrase "or, in the case of audited or unaudited financial statements, a fair presentation of the financial condition of the relevant person."
- (b) **Scope of Agreement.** Any transaction between the parties that is either outstanding as of the date of this Agreement or that is entered into by the parties on the date of this Agreement or any subsequent date while this Agreement remains in effect, that meets the definition of "Specified Transaction" herein, unless the parties specifically agree otherwise, will constitute a "Transaction" for the purposes of this Agreement.
- (c) **Obligations: General Conditions.** Section 2(a)(iii) is hereby amended by: (i) deleting in the second line thereof the word "or" and replacing it with a comma and (ii) inserting in the second line thereof after the words "Potential Event of Default" the words ", or Incipient Illegality".

- (d) **Powers.** Section 3(a)(ii) is hereby amended by: (i) inserting in the first line there of after the word “power” the words “(in the case of Counterparty, pursuant to the Authorizing Law)”; (ii) deleting in the fifth line thereof after the word “party” the word “and” and replacing it with “, it”; (iii) inserting in the fifth line thereof after the word “action” the words “and has made all necessary determinations and findings”; and (iv) adding in the fifth line thereof after the word “performance” and before the semicolon the words “, the individual(s) executing and delivering this Agreement and any other documentation (including any Credit Support Document) relating to this Agreement to which it is a party or that it is required to deliver are duly empowered and authorized to do so, and it has duly executed and delivered this Agreement and any Credit Support Document to which it is a party”.
- (e) **Additional Basic Representations.** The parties agree to amend Section 3 by adding new Sections 3(e), (f), (g), (h) and (i) as follows:
- (e) **Eligible Contract Participant.** It is an “eligible contract participant” as defined in the U.S. Commodity Exchange Act.
- (f) **Non-Reliance.** It is acting for its own account, and it has made its own independent decisions to enter into that Transaction and as to whether that Transaction is appropriate or proper for it based upon its own judgment and upon advice from such advisers as it has deemed necessary. It is not relying on any communication (written or oral) of the other party as investment advice or as a recommendation to enter into that Transaction; it being understood that information and explanations related to the terms and conditions of a Transaction shall not be considered investment advice or a recommendation to enter into that Transaction. No communication (written or oral) received from the other party shall be deemed to be an assurance or guarantee as to the expected results of that Transaction.
- (g) **Assessment and Understanding.** It is capable of assessing the merits of and understanding (on its own behalf or through independent professional advice), and understands and accepts, the terms, conditions and risks of that Transaction. It is also capable of assuming, and assumes, the risks of that Transaction.
- (h) **Status of Parties.** The other party is not acting as a fiduciary for or an adviser to it in respect of that Transaction.
- (i) **Termination Payments.** Each party acknowledges that, pursuant to the terms of this Agreement (including, without limitation, Section 6(e) hereof), it may owe a payment to the other party upon the designation of an Early Termination Date hereunder, even in the event such Early Termination Date is the result of an Event of Default with respect to such other party.
- (f) **Additional Representations of Counterparty.** Counterparty hereby further represents to Party A (which representations will be deemed to be repeated by Counterparty at all times until the termination of this Agreement) that:
- (i) **Non-Speculation.** This Agreement has been, and each Transaction has been and will be entered into not for purpose of speculation but solely in connection with the financing activities of Counterparty, including without limitation converting interest on all or a portion of certain of Counterparty’s debt from a fixed rate to a floating rate, or from a floating rate to a fixed rate, or from one floating rate to a different floating rate, reducing the cost of borrowing on its outstanding debt by optimizing the relative amounts of fixed

and floating rate obligations on the risk of variations in its debt service costs, and by increasing the predictability of cash flow from earnings on invested funds and thereby improving Counterparty's ability to manage its funds and revenues.

- (ii) **No Immunity.** It is not entitled to claim immunity, and to the fullest extent permitted by applicable law irrevocably waives, on the grounds of sovereignty or other similar grounds with respect to itself or its revenues or assets (irrespective of their use or intended use) from (i) suit, (ii) jurisdiction of any court, (iii) relief by way of injunction, order for specific performance or for recovery of property, (iv) attachment of its assets (whether before or after judgment) or (v) execution or enforcement of any judgment to which it or its revenues or assets might otherwise be made subject to in any suit, action or proceedings relating to this Agreement in the courts of any jurisdiction and no such immunity (whether or not claimed) may be attributed to such party or its revenues or assets.
- (iii) **Legal Investment.** This Agreement and each Transaction hereunder do not constitute any kind of investment by Counterparty that is proscribed by any constitution, charter, law, rule, regulation, government code, constituent or governing instrument, resolution, guideline, ordinance, order, writ, judgment, decree, charge, or ruling to which Counterparty (or any of its officials in their respective capacities as such) or its property is subject.
- (iv) **Assets of Counterparty.** No Affiliate or other person, firm, corporation, entity or association may liquidate, borrow, encumber or otherwise utilize the assets (including without limitation the assets identified in Section 4(f)) of Counterparty. Counterparty has taken all steps necessary or advisable to create and perfect the pledge and security interest in the assets identified in Section 4(f), and such pledge and security interest have been validly created and perfected.
- (v) **Organization.** Counterparty is a state or political subdivision thereof, or an instrumentality, agency or department of either of the foregoing.
- (vi) **Official Statements.** No official statement or similar disclosure document, contains any untrue statement of a material fact or omits to state a material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading.
- (vii) **Valid Purpose.** The execution and delivery by Counterparty of this Agreement, each Confirmation and any other documentation relating hereto, and the performance by Counterparty of its obligations hereunder and thereunder, are in furtherance, and not in violation, of the public purposes for which Counterparty is organized pursuant to the laws of the state in which Counterparty is organized.
- (viii) **Nature of Obligations.** The obligations of Counterparty to make payments to Party A under this Agreement and each Transaction (a) are not subject to appropriation or similar action and (b) do not (1) constitute any kind of indebtedness of Counterparty or (2) create any kind of lien on or security interest in any property or revenues of Counterparty which, in either case (1) or (2), is proscribed by any constitution, charter, law, rule, regulation, government code, constituent or governing instrument, resolution, guideline, ordinance, order, writ, judgment, decree, charge, or ruling to which Counterparty (or any of its officials in their respective capacities as such) or its property is subject.

- (g) **Transfer.** The following amendments are hereby made to Section 7:
- (i) In the third line, insert the words “which consent will not be arbitrarily withheld or delayed,” immediately before the word “except”; and
 - (ii) in clause (a), insert the words “or reorganization, incorporation, reincorporation, or reconstitution into or as,” immediately before the word “another.”

(h) **Consent to Recording.** Each party consents to the recording of telephone conversations between the trading, marketing and other relevant personnel of the parties, with or without the use of a warning tone, and their Affiliates in connection with this Agreement or any potential Transaction, provided however, that it shall be the responsibility of each party to satisfy any notice and/or consent requirements imposed by applicable law or regulation with respect to the recording that it conducts.

(i) **Set-off.** The parties agree to amend Section 6 by adding a new Section 6(f) as follows:

“(f) Upon the occurrence of an Event of Default or Termination Event under Section 5(b)(ii) with respect to a party (“X”), the other party (“Y”) will have the right (but not be obliged) without prior notice to X or any other person to set-off or apply any obligation of X owed to Y (or any Affiliate of Y) (whether or not matured or contingent and whether or not arising under this Agreement, and regardless of the currency, place of payment or booking office of the obligation) against any obligation of Y (or any Affiliate of Y) owed to X (whether or not matured or contingent and whether or not arising under this Agreement, and regardless of the currency, place of payment or booking office of the obligation). Y will give notice to the other party of any set-off effected under this Section 6(f).

Amounts (or the relevant portion of such amounts) subject to set-off may be converted by Y into the Termination Currency at the rate of exchange at which such party would be able, acting in a reasonable manner and in good faith, to purchase the relevant amount of such currency.

If any obligation is unascertained, Y may in good faith estimate that obligation and set-off in respect of the estimate, subject to the relevant party accounting to the other when the obligation is ascertained.

Nothing in this Section 6(f) shall be effective to create a charge or other security interest. This Section 6(f) shall be without prejudice and in addition to any right of set-off, combination of accounts, lien or other right to which any party is at any time otherwise entitled (whether by operation of law, contract or otherwise).”

(j) **Additional Agreements.** (i) The introductory clause of Section 4 of this Agreement is hereby amended to read in its entirety as follows:--

Each party agrees with the other (and, in the case of Sections 4(d) and (e), Counterparty agrees with the other party) that, so long as either party has or may have any obligation under this Agreement or under any Credit Support Document to which it is a party:

(ii) Section 4 of this Agreement is hereby amended by adding the following Sections (d) and (e) thereto:

(d) **Notice of Incipient Illegality.** If an Incipient Illegality occurs, Counterparty will, promptly upon becoming aware of it, notify the other party, specifying the nature of that Incipient Illegality and will also give such other information about that Incipient Illegality as the other party may reasonably require.

(e) **Source of Payments.** Counterparty agrees that its obligations hereunder are, and until the termination of this Agreement pursuant to the terms hereof shall remain an operating expense under the Counterparty's Gas Revenue Fund.

(k) **Credit Support Default.** Subparagraph (3) of Section 5(a)(iii) is hereby amended by adding in the second line thereof after the word "Document" and before the semicolon the words "(or such action is taken by any person or entity appointed or empowered to operate it or act on its behalf)".

(l) **Definitions.** Section 12 is hereby amended by inserting the following definitions in alphabetical order:

"Authorizing Law" means the California Constitution and Government Code, the Long Beach Municipal Code and the City of Long Beach Charter, each as amended or supplemented.

"Government Entity" means Counterparty.

"Incipient Illegality" means (a) the enactment by any legislative body with competent jurisdiction over Counterparty of legislation which, if adopted as law, would render unlawful (i) the performance by Counterparty of any absolute or contingent obligation to make a payment or delivery or to receive a payment or delivery in respect of a Transaction or the compliance by Counterparty with any other material provisions of this Agreement relating to such Transaction or (ii) the performance by Counterparty or a Credit Support Provider of Counterparty of any contingent or other obligation which Counterparty (or such Credit Support Provider) has under any Credit Support Document relating to such Transaction, (b) any assertion in any proceeding, forum or action by Counterparty, in respect of Counterparty or in respect of any entity organized under the laws of the state in which Counterparty is located to the effect that performance under this Agreement or similar agreements is unlawful or (c) the occurrence with respect to Counterparty or any Credit Support Provider of Counterparty of any event that constitutes an Illegality.

(m) **Termination of Agreement.** Each of the parties hereto may terminate the Agreement at any time by at least thirty days' prior written notice to the other party, provided that such termination will not affect any outstanding Transaction and the provisions of this Agreement will continue to apply until all the obligations of the parties under this Agreement have been performed fully.

(n) **Waiver of Trial by Jury.** Each party hereby irrevocably waives any and all right to trial by jury in any Proceeding.

- (o) **ISDA Definitions.** This Agreement is subject to the 1998 FX and Currency Option Definitions (the “FX Definitions”), as published by the International Swaps and Derivatives Association, Inc. (“ISDA”), the Emerging Markets Traders Association, and the Foreign Exchange Committee and the 2005 ISDA Commodity Definitions, as published by ISDA, as amended and supplemented from time to time (the “Commodity Definitions”), and will be governed in all respects by the FX Definitions and the Commodity Definitions. The FX Definitions and the Commodity Definitions are incorporated by reference in, and made part of, this Agreement and each Confirmation for an FX Transaction, a Currency Option Transaction and a Transaction in respect of one of more Commodities (each a “Commodity Transaction”), as applicable, as if set forth in full in this Agreement and such Confirmations.

In the event of any inconsistency between the provisions of this Agreement on the one hand and the FX Definitions or the Commodity Definitions on the other hand, this Agreement will prevail. In the event of any inconsistency between the FX Definitions and the Commodity Definitions, the FX Definitions will prevail with respect to an FX Transaction or a Currency Option Transaction and the Commodity Definitions will prevail with respect to a Commodity Transaction. Subject to Section 1(b), in the event of any inconsistency between the provisions of any Confirmation, this Agreement, and the FX Definitions and/or the Commodity Definitions, such Confirmation will prevail for the purpose of the relevant Transaction.

- (p) **Foreign Account Tax Compliance Act.** (a) For purposes of any Payer Tax Representation, the words “any Tax from any payment” shall not include any tax imposed under Sections 1471 and 1472 of the Internal Revenue Code of 1986, as amended (or the United States Treasury regulations or other guidance issued or any agreements entered into thereunder)(“FATCA Withholding Tax”); (b) for the avoidance of doubt, the parties agree that for purposes of Section 2(d) the deduction or withholding of FATCA Withholding Tax is required by applicable law; and (c) the definition of “Indemnifiable Tax” shall not include any FATCA Withholding Tax.
- (q) **2010 Short Form HIRE Act Protocol.** Aron and Counterparty hereby agree that this Agreement shall be treated as a Covered Master Agreement, as that term is defined in the ISDA 2010 Short Form HIRE Act Protocol published by the International Swaps and Derivatives Association, Inc. on November 30, 2010, as may be amended or modified from time to time (the “Short Form HIRE Act Protocol”), and this Agreement shall be deemed to have been amended in accordance with the modifications specified in the Attachment to the Short Form HIRE Act Protocol.

Part 6. Terms of Transactions

- (a) The following “**Disruption Fallbacks**” specified in Section 7.5(c) of the Commodity Definitions shall apply, in the following order, except as otherwise specified in the relevant Confirmation:
- (i) “Fallback Reference Price”;
 - (ii) “Postponement”, with two (2) Commodity Business Days as the Maximum Days of Disruption;
 - (iii) Negotiated Fallback; provided, however, that Section 7.5(c)(iii) is amended by replacing the word “fifth” with the word “third”;
 - (iv) “Fallback Reference Dealers”; and

- (v) "Calculation Agent Determination".
- (b) Section 7.5(e) of the Commodity Definitions is hereby deleted in its entirety.
- (c) Section 6.2(b) of the Commodity Definitions is hereby amended by deleting the words ", as determined on the Trade Date of the Transaction as of the time of execution of the Transaction".
- (d) The parties agree that notwithstanding Section 1(b) of this Agreement, in the event that a Confirmation references the 1993 ISDA Commodity Derivatives Definitions (the "1993 Definitions"), the 2000 Supplement to the 1993 Definitions or the Commodity Definitions and such Confirmation does not otherwise specify Disruption Fallbacks, the Disruption Fallbacks specified in Part 6(a) hereof shall apply to the Transaction for which such Confirmation relates.

Part 7 ISDA North American Gas Annex

The ISDA North American Gas Annex (the "Gas Annex") attached hereto as Exhibit A is hereby added and deemed to be part of, and incorporated into, the Master Agreement as a new Part 7 to the Master Agreement; provided, however, that the following elections set forth in "(l) Elective Provisions", "(m) Notices for Gas Transactions" and the amendments in "(n) Other Provisions/Modifications to this Gas Annex" below shall be applicable to such Part 7.

"(l) Elective Provisions

1. (a)(ii) – Outstanding Gas Transactions. This Gas Annex shall apply to the following pre-existing Gas Transactions pursuant to clause (a)(ii):

Option A: All Gas Transactions outstanding between the parties as of the date this Gas Annex becomes effective.

Option B: The Gas Transactions listed in Schedule 1 to this Gas Annex.

Option C: None of the Gas Transactions between the parties that were executed prior to the date this Gas Annex becomes effective.

If none of the above options is selected, Option A shall apply.

2. (a)(iii) – Outstanding Gas Credit Support

Outstanding Gas Credit Support held by a party in connection with Outstanding Gas Transactions shall be deemed to have been delivered under and in connection with this Agreement pursuant to clause (a)(iii).

If not checked, not applicable.

3. (b)(ii) – Performance Obligation (remedy for breach of Firm obligation)

Option A: Cover Standard

Option B: Spot Price Standard

If neither option is selected, Option A shall apply.

4. (e) – Taxes

x___ Option A: Buyer Pays At and After Delivery Point

___ Option B: Seller Pays Before and At Deliver Point

If neither option is selected, Option A shall apply.

5. (f)(ii) – Payment Date

x___ Option A: the later of the 25th Day of Month following Month of delivery or 10 Days after receipt of the invoice by Buyer (provided that if the Payment Date is not a Local Business Day, payment is due on the next Local Business Day following that date).

___ Option B: the later of the ___ Day of Month following Month of delivery or 10 Days after receipt of the invoice by Buyer (provided that if the Payment Date is not a Local Business Day, payment is due on the next Local Business Day following that date).

___ Option C: Notwithstanding anything to the contrary in the Schedule, payments with respect to both Gas Transactions and Power Transactions (as defined separately in the Schedule) will be netted and payable on or before the later of the 20th Day of Month following Month of delivery or 10 Days after receipt of the invoice by Buyer (provided that if the Payment Date is not a Local Business Day, payment is due on the next Local Business Day following that date).

___ Option D: Notwithstanding anything to the contrary in the Schedule, payments with respect to both Gas Transactions and Power Transactions (as defined separately in the Schedule) will be netted and payable on or before the later of the 25th Day of Month following Month of delivery or 10 Days after receipt of the invoice by Buyer (provided that if the Payment Date is not a Local Business Day, payment is due on the next Local Business Day following that date).

If none of the above options is selected, Option A shall apply.

6. (k)(xxii) – Alternative to Spot Price Index. The parties have selected the following alternative index as the Spot Price Index: _____. If no index is specified, the Spot Price Index specified in clause (l)(xxi) applies.

(m) Notices for Gas Transactions

**Aron
Invoices:**

As set forth in Part 4 of the Schedule unless otherwise set forth below:

Attn: Energy Operations, Manager

**Counterparty
Invoices:**

As set forth in Part 4 of the Schedule unless otherwise set forth below:

Attn: Gas Supply Officer

J. Aron & Company
200 West Street
New York, New York 10282-2198

Phone: 212-902-7349
Facsimile: 212-344-3457

Nominations:

As set forth in Part 4 of the Schedule unless otherwise set forth below:

Attn: Physical Operations
J. Aron & Company
200 West Street
New York, New York 10282-2198

Phone: 212 902 7349
Facsimile: 212 493 9847

Email: ficc-jaron-physical@gs.com

Confirmations:

As set forth in Part 4 of the Schedule unless otherwise set forth below:

Attn: Contract Execution Department
J. Aron & Company
200 West Street
New York, New York 10282-2198

Phone: 212-357-3606
Facsimile: 212-344-3457

Option Exercise:

As set forth in Part 4 of the Schedule unless otherwise set forth below:

Attn: Greg Agran
J. Aron & Company
200 West Street
New York, New York 10282-2198
Phone: 212 902 7600
Facsimile: 212 346 2688

Wire Transfer - or - ACH (check one box):

City of Long Beach, Gas and Oil Dept.
2400 E. Spring Street
Long Beach, CA 90806

Phone: 562-570-3981
Facsimile: 562-570-2008

Nominations:

As set forth in Part 4 of the Schedule unless otherwise set forth below:

Attn: Gas Supply Officer
City of Long Beach, Gas and Oil Dept
2400 E. Spring Street
Long Beach, CA 90806

Phone: 562-570-3981
Facsimile: 562-570-2008

Confirmations:

As set forth in Part 4 of the Schedule unless otherwise set forth below:

Attn: Gas Supply Officer
City of Long Beach, Gas and Oil Dept
2400 E. Spring Street
Long Beach, CA 90806

Phone: 562-570-3981
Facsimile: 562-570-2008

Option Exercise:

As set forth in Part 4 of the Schedule unless otherwise set forth below:

Attn:

Phone:
Facsimile:

Wire Transfer - or - ACH (check one box):

As set forth in Part 4 of the Schedule unless otherwise set forth below:

Bank: Citibank, N.A.
ABA: 021000089
Account: 09292521
Other Details: For the account of J. Aron & Co.,
New York

As set forth in Part 4 of the Schedule unless otherwise set forth below:

Bank: Union Bank of California
ABA: 122000496
Account: 2740016582
Other Details: Cash Concentration Account

- (n) **Other Provisions/Modifications to this Gas Annex.** Notwithstanding anything in the Agreement to the contrary, including the Gas Annex hereby incorporated as Part 7 to the Agreement and the Schedule to the Master Agreement, the following provisions shall be deemed to amend and/or supplement the provisions of the Gas Annex set forth as a new Part 7 to the Agreement:
- (i) Part 7(h)(ii)(D) shall be amended by adding the word "terrorism" after the word "sabotage" found in the sixth line therein.
 - (ii) **Mobile-Sierra.** To the extent, if any, that a Transaction does not qualify as a "first sale" as defined by the Natural Gas Act and §§ 2 and 601 of the Natural Gas Policy Act, each party irrevocably waives its rights, including its rights under §§ 4-5 of the Natural Gas Act, unilaterally to seek or support a change in the rate(s), charges, classifications, terms or conditions of this Contract, any Transaction hereunder or any other agreements entered into in connection with this Contract (collectively, the "Covered Agreements"). By this provision, each party expressly waives its right to seek or support: (i) an order from the U.S. Federal Energy Regulatory Commission ("FERC") finding that the market-based rate(s), charges, classifications, terms or conditions agreed to by the parties under the Covered Agreements are unjust and unreasonable; or (ii) any refund with respect thereto. Each party agrees not to make or support such a filing or request, and that these covenants and waivers shall be binding notwithstanding any regulatory or market changes that may occur hereafter. Absent the agreement of both parties to the proposed change, the standard of review for changes to any section of the Covered Agreements proposed by a party (to the extent that any waiver as set forth in this Part 7(n)(ii) is unenforceable or ineffective as to such party), a non-party or FERC acting sua sponte, shall be the "public interest" standard of review set forth in United Gas Pipe Line Co. v. Mobile Gas Service Corp., 350 U.S. 332 (1956) and Federal Power Commission v. Sierra Pacific Power Co., 350 U.S. 348 (1956) (the "Mobile-Sierra" doctrine).

IN WITNESS WHEREOF, the parties have executed this document on the respective dates specified below with effect from the date specified on the first page of this document.

J. ARON & COMPANY

CITY OF LONG BEACH

Name: Susan Rudov
Title: Attorney In Fact
Date: March 30 2012

Assistant City Manager

Name: Patrick H. West
Title: City Manager
Date: 4/11/12

EXECUTED PURSUANT
TO SECTION 301 OF
THE CITY CHARTER.

APPROVED AS TO FORM

4.5, 2012

ROBERT E. SHANNON, City Attorney

By

RICHARD ANTHONY
DEPUTY CITY ATTORNEY

[Letterhead of Counterparty's Legal Counsel]

_____, 2011

[SUBJECT TO COMPLETION]

[Addressee]
200 West Street
New York, New York 10282-2198
U.S.A.

Ladies and Gentlemen:

We are attorneys admitted to practice in the State of _____ and are generally familiar with the affairs of _____ ("Counterparty"). We have examined and are familiar with (i) the documents relating to the creation, authorization, organization, existence, and operation of Counterparty, (ii) the Master Agreement dated as of _____ between Counterparty and [Addressee ("Addressee")] (the "Swap Agreement"), (iii) the Confirmation dated as of _____ between Counterparty and [Addressee] (the "Confirmation") (the Swap Agreement and Confirmation being collectively referred to as the "Agreement"), (iv) all necessary documentation of Counterparty relating to the authorization, execution, delivery, and performance of the Agreement, and (v) such other records and instruments as we deemed advisable.

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

1. Counterparty is duly organized, validly existing, and in good standing under the laws of _____.
2. Counterparty has the power [pursuant to the Authorizing Law] to execute this Agreement and any other documentation relating to this Agreement to which it is a party, to deliver this Agreement and any other documentation relating to this Agreement that it is required by this Agreement to deliver and to perform its obligations under this Agreement and any obligations it has under any Credit Support Document to which it is a party and has taken all necessary action and has made all necessary determinations and findings to authorize such execution, delivery and performance, the individual(s) executing and delivering this Agreement and any other documentation (including any Credit Support Document) relating to this Agreement to which it is a party or that it is required to deliver are duly empowered and authorized to do so, and it has duly executed and delivered this Agreement and any Credit Support Document to which it is a party;
3. Such execution, delivery and performance do not violate, conflict with, or constitute a breach of or default under, any law applicable to Counterparty, any provision of its constitutional documents, any order or judgment of any court or other agency of government applicable to it or any of its assets or any contractual restriction binding on or affecting it or any of its assets. Counterparty is not in violation or breach of or default under any law applicable to Counterparty, any provision of its constitutional documents, any order or judgment of any court or other agency of government applicable to it or any of its assets or any contractual restriction binding on or affecting it or any of its assets which could adversely affect the Agreement or any other documentation (including any Credit Support Document) relating to this Agreement to which it is a party or that it is required to deliver, the legality, validity, binding effect, or enforceability thereof, the ability of Counterparty to perform its obligations thereunder, or the financial condition or operations of Counterparty.

4. All governmental and other consents that are required to have been obtained by Counterparty with respect to this Agreement or any Credit Support Document to which Counterparty is a party have been obtained and are in full force and effect and all conditions of any such consents have been complied with.

5. The Agreement and any Credit Support Document to which Counterparty is a party have been duly authorized, executed, and delivered by Counterparty, and the obligations of Counterparty under this Agreement and any such Credit Support Document constitute its legal, valid and binding obligations, enforceable in accordance with their respective terms (subject to applicable bankruptcy, reorganization, insolvency, moratorium or similar laws affecting creditors' rights generally and subject, as to enforceability, to equitable principles of general application (regardless of whether enforcement is sought in a proceeding in equity or at law)).

6. There is not pending or, to the knowledge of such counsel, threatened against Counterparty or against any Credit Support Provider of Counterparty or any entity designated as a Specified Entity of Counterparty for purposes of [Section 5(a)(vii)] of the Agreement (nor to the knowledge of such counsel is there any basis for), any action, suit or proceeding at law or in equity or before any court, tribunal, governmental body, agency or official or any arbitrator that is likely to affect the legality, validity or enforceability against it of this Agreement or any Credit Support Document to which it is a party or its ability to perform its obligations under this Agreement or such Credit Support Document.

7. The Counterparty shall be legally bound by the terms of each Transaction entered into under the [Swap Agreement] from the moment the parties agree to those terms (whether orally or otherwise).

Very truly yours,

**ISDA NORTH AMERICAN GAS ANNEX
to the Schedule to the
ISDA Master Agreement**

dated as of

between

..... and

This Gas Annex supplements, forms part of, and is subject to the above-referenced Agreement and is part of the Schedule thereto.

(a) Physical Gas Transactions under this Agreement; Credit Support Documents

(i) **Physical Gas Transactions under this Agreement.** The provisions of this Gas Annex shall apply solely to transactions between the parties for the purchase or sale of physical Gas with delivery points in North America on a Firm or Interruptible basis on a spot or forward basis or as an option to purchase or sell Gas (collectively, "Gas Transactions"). All Gas Transactions will be deemed to have been entered into in accordance with the terms of this Agreement and shall be Transactions for all purposes of this Agreement. A subsequent agreement between the parties to settle a Gas Transaction without involving a physical delivery of Gas shall not affect such Gas Transaction's status as a Gas Transaction under this Gas Annex. In the event of any inconsistency among or between the other provisions of this Agreement and this Gas Annex, this Gas Annex will govern with respect to Gas Transactions. In the event of any inconsistency between the Confirmation for a Gas Transaction and this Gas Annex, the Confirmation will govern with respect to such Gas Transaction, except as provided in clause (a)(ii) with respect to Outstanding Gas Transactions.

(ii) **Applicability to Outstanding Gas Transactions.** Gas Transactions executed by the parties prior to the effectiveness of this Gas Annex and selected under clause (l)(1) ("Outstanding Gas Transactions") shall be Transactions and shall be subject to the terms and conditions of this Agreement upon effectiveness of this Gas Annex, unless otherwise agreed in writing by the parties with respect to one or more specific Outstanding Gas Transactions. All confirmations evidencing such Outstanding Gas Transactions shall constitute "Confirmations" within the meaning of this Agreement that supplement, form part of and are subject to this Agreement. If any confirmation issued or entered into with respect to one or more Outstanding Gas Transactions pursuant to the terms of a master agreement or in a form that contains provisions that are not directly related to the commercial terms of the Transaction and that are inconsistent with or duplicative of the terms and conditions of this Agreement (such master agreement or the portion of such Confirmation containing such non-commercial terms being referred to herein as the "Prior Master Agreement"), then, notwithstanding any provision of this Agreement to the contrary, the terms of the Schedule and the pre-printed form of this Agreement shall automatically supersede such Prior Master Agreement effective upon the effectiveness of this Gas Annex.

(iii) **Credit Support Documents.** If elected under clause (l) as being applicable:

(A) **Outstanding Gas Credit Support.** The parties agree that to the extent any collateral, margin, security or other similar form of credit support (such credit support, excluding guarantees, being referred to herein as "Outstanding Gas Credit Support") is held by a party in connection with the obligations of the other party under Outstanding Gas Transactions, such Outstanding Gas Credit Support shall be deemed to have been delivered in respect of the obligations of the other party under and in connection with this Agreement.

The parties further agree that with respect to any Outstanding Gas Credit Support that (x) if the parties have entered into a Credit Support Document in connection with this Agreement that governs the provision of collateral, margin, security or other similar form of credit support (such Credit Support Document, an "Existing ISDA Credit Support Document") then the Outstanding Gas Credit Support shall be deemed to constitute credit support provided under such Existing ISDA Credit Support Document and such Existing ISDA Credit Support Document shall automatically supersede any agreement between the parties pursuant to which the Outstanding Gas Credit Support was provided (the "Outstanding Gas Credit Support Document") effective as of the date agreed by the parties and (y) if the parties have not entered into an Existing ISDA Credit Support Document, then the Outstanding Gas Credit Support Document constitutes a Credit Support Document with respect to the party that provided such credit support.

(B) *Amendments/Guaranties.* The parties agree that they will enter into such amendments to any Outstanding Gas Credit Support Document as may be necessary to give effect to the terms of this clause (a)(iii). To the extent that a guaranty was delivered in connection with a party's obligations under Outstanding Gas Transactions or a Prior Master Agreement, that party represents and warrants that any amendments necessary to ensure that the guaranty would extend to Transactions subject to this Agreement have been made prior to the effectiveness of this Gas Annex and agrees (x) that such guaranty constitutes a Credit Support Document with respect to the obligations of such party and (y) the guarantor under such guaranty constitutes a Credit Support Provider with respect to the obligations of such party.

(b) Performance Obligation

(i) Seller agrees to sell and deliver, and Buyer agrees to receive and purchase, the Contract Quantity for a particular Gas Transaction in accordance with the terms of this Gas Annex. Sales and purchases will be on a Firm or Interruptible basis, as agreed to by the parties in a Gas Transaction.

(ii) The remedy for the breach of a Firm obligation by a party shall be determined pursuant to the option below that the parties select in clause (I)(3):

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

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

(iii) Notwithstanding clause (b)(ii) of this Gas Annex, the parties may agree to Alternative Damages in a Confirmation executed in writing by both parties.

(c) Transportation, Nominations and Imbalances

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

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

(iii) The parties shall use commercially reasonable efforts to avoid imposition of any Imbalance Charges. If Buyer or Seller receives an invoice from a Transporter that includes Imbalance Charges, the parties shall determine the validity as well as the cause of such Imbalance Charges. If the Imbalance Charges were incurred as a result of Buyer's receipt of quantities of Gas greater than or less than the Scheduled Gas, then Buyer shall pay for such Imbalance Charges or reimburse Seller for such Imbalance Charges paid by Seller. If the Imbalance Charges were incurred as a result of Seller's delivery of quantities of Gas greater than or less than the Scheduled Gas, then Seller shall pay for such Imbalance Charges or reimburse Buyer for such Imbalance Charges paid by Buyer. "Unpaid Amounts" as defined in Section 14 of this Agreement shall include unpaid Imbalance Charges, if any.

(d) Quality and Measurement

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

(e) Taxes

The Taxes payable by a party shall be determined pursuant to the option below that the parties select in clause (l)(4):

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

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

(f) Billing, Payment and Audit

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

(ii) Buyer shall remit the amount due under clause (f)(i) of this Gas Annex, in immediately available funds to the account specified from time to time by Seller, on or before the Payment Date elected in clause (l)(5) of this Gas Annex. In the event any payments are due Buyer hereunder, payment to Buyer shall be made in accordance with this clause (f)(ii).

(iii) In the event payments become due pursuant to clauses (b)(ii) or (b)(iii) of this Gas Annex, the performing party may submit an invoice to the nonperforming party for an accelerated payment setting forth the basis upon which the invoiced amount was calculated. Payment from the nonperforming party will be due five Local Business Days after receipt of invoice.

(iv) If the invoiced party, in good faith, disputes the amount of any such invoice or any part thereof, such invoiced party will pay such amount as it concedes to be correct; provided, however, if the invoiced party disputes the amount due, it must provide supporting documentation acceptable in industry practice to support the amount paid or disputed. In the event the parties are unable to resolve such dispute, either party may pursue any remedy available at law or in equity to enforce its rights pursuant to this clause (f).

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

(g) Title, Warranty and Indemnity

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

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

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

(iv) Notwithstanding the other provisions of this clause (g) of this Gas Annex, as between Seller and Buyer, Seller will be liable for all Claims to the extent that such arise from the failure of Gas delivered by Seller to meet the quality requirements of clause (d) of this Gas Annex.

(h) Force Majeure

(i) Except with regard to a party's obligation to make payment(s) due under clause (f) of this Gas Annex, Section 6 (e) of this Agreement and Imbalance Charges under clause (c)(iii) of this Gas Annex, neither party shall be liable to the

other for failure to perform a Firm obligation, to the extent such failure was caused by Force Majeure. The term "Force Majeure" as employed herein means any cause not reasonably within the control of the party claiming suspension, as further defined in clause (h)(ii) of this Gas Annex.

(ii) Force Majeure shall include, but not be limited to, the following: (A) physical events such as acts of God, landslides, lightning, earthquakes, fires, storms or storm warnings, such as hurricanes, which result in evacuation of the affected area, floods, washouts, explosions, breakage or accident or necessity of repairs to machinery or equipment or lines of pipe; (B) weather related events affecting an entire geographic region, such as low temperatures which cause freezing or failure of wells or lines of pipe; (C) interruption and/or curtailment of Firm transportation and/or storage by Transporters; (D) acts of others such as strikes, lockouts or other industrial disturbances, riots, sabotage, insurrections or wars; and (E) governmental actions such as necessity for compliance with any court order, law, statute, ordinance, regulation, or policy having the effect of law promulgated by a governmental authority having jurisdiction. Seller and Buyer shall make reasonable efforts to avoid the adverse impacts of a Force Majeure and to resolve the event or occurrence once it has occurred in order to resume performance.

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

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

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

(vi) Notwithstanding clauses (h)(ii) and (h)(iii) of this Gas Annex, the parties may agree to alternative Force Majeure provisions in a Confirmation executed in writing by both parties.

If the pre-printed form portion of this Agreement is the 2002 ISDA Master Agreement form, Section 5(b)(ii) of this Agreement shall not apply to any Gas Transaction.

(i) Limitation of Liability

FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY. A PARTY'S LIABILITY HEREUNDER SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION, AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED HEREIN OR IN A GAS TRANSACTION, A PARTY'S LIABILITY SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY. SUCH DIRECT ACTUAL DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. UNLESS EXPRESSLY HEREIN PROVIDED, NEITHER PARTY SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS

OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION OR OTHERWISE. IT IS THE INTENT OF THE PARTIES THAT THE LIMITATIONS HEREIN IMPOSED ON REMEDIES AND THE MEASURE OF DAMAGES BE WITHOUT REGARD TO THE CAUSE OR CAUSES RELATED THERETO, INCLUDING THE NEGLIGENCE OF ANY PARTY, WHETHER SUCH NEGLIGENCE BE SOLE, JOINT OR CONCURRENT, OR ACTIVE OR PASSIVE. TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, OR OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT AND THE DAMAGES CALCULATED HEREUNDER CONSTITUTE A REASONABLE APPROXIMATION OF THE HARM OR LOSS.

(j) Certain Amendments to this Agreement for Gas Transactions

- (i) *Section 5(a)(i)*. With respect to all Gas Transactions, the words “or delivery under Section 2(a)(i) or 2(e)” in the second line of Section 5(a)(i) of this Agreement and, if the pre-printed form portion of this Agreement is the 2002 ISDA Master Agreement form, the words “or the first Local Delivery Day in the case of any such delivery” and “, in each case,” in the third and fourth lines of Section 5(a)(i) of this Agreement, are hereby deleted.
- (ii) *Section 5(a)(ii)*. With respect to all Gas Transactions, the words “or delivery under Section 2(a)(i) or 2(e)” in the second line of Section 5(a)(ii) are hereby deleted and the words “or to deliver or receive Gas, the exclusive remedy for which is provided in clause (b)(ii) of the Gas Annex to the Schedule” are hereby added at the end of the parenthetical of Section 5(a)(ii) if the pre-printed form portion of this Agreement is the 1992 ISDA Master Agreement form or Section 5(a)(ii)(1) if the pre-printed form portion of this Agreement is the 2002 ISDA Master Agreement form.
- (iii) *Section 5(a)(v)*. With respect to all Gas Transactions, (A) if the pre-printed form portion of this Agreement is the 1992 ISDA Master Agreement, the parenthetical “(other than by failing to make a delivery)” is inserted after the word “defaults” in clause (1) of Section 5(a)(v) and the words “or delivery” in clause (2) of Section 5(a)(v) of this Agreement are deleted; and (B) if the pre-printed form portion of this Agreement is the 2002 ISDA Master Agreement, the words “(including any delivery due on the last delivery or exchange date of) a Specified Transaction or” in clause (3) of Section 5(a)(v) of this Agreement are deleted.

(k) Definitions. For purposes of this Gas Annex, the following definitions apply:

- (i) “Alternative Damages” shall mean such damages, expressed in dollars or dollars per MMBtu, as the parties shall agree upon in the Transaction Confirmation, in the event either Seller or Buyer fails to perform a Firm obligation to deliver Gas in the case of Seller or to receive Gas in the case of Buyer.
- (ii) “British thermal unit” or “Btu” shall mean the International BTU, which is also called the Btu (IT).
- (iii) “Buyer” shall mean the party receiving Gas under a Gas Transaction.
- (iv) “Contract Price” shall mean the amount expressed in U.S. Dollars per MMBtu to be paid by Buyer to Seller for the purchase of Gas as agreed to by the parties in a Gas Transaction.
- (v) “Contract Quantity” shall mean the quantity of Gas to be delivered and taken as agreed to by the parties in a Gas Transaction.
- (vi) “Cover Standard” shall mean that if there is an unexcused failure to take or deliver any quantity of Gas pursuant to this Gas Annex, then the performing party shall use commercially reasonable efforts to (i) if Buyer is the performing party, obtain Gas, (or an alternate fuel if elected by Buyer and replacement Gas is not available), or (ii) if Seller is the performing party, sell Gas, in either case, at a price reasonable for the delivery or production area, as applicable, consistent with: the amount of notice provided by the nonperforming party; the immediacy of the Buyer's Gas consumption needs or Seller's Gas sales requirements, as applicable; the quantities involved; and the anticipated length of failure by the nonperforming party.

- (vii) "Day" shall mean a period of 24 consecutive hours, coextensive with a "day" as defined by the Receiving Transporter in a particular transaction.
- (viii) "Delivery Period" shall be the period during which deliveries are to be made as agreed to by the parties in a Gas Transaction.
- (ix) "Delivery Point(s)" shall mean such point(s) as are agreed to by the parties in a Gas Transaction.
- (x) "EFP" shall mean, when used in a Confirmation of a Gas Transaction, the purchase, sale or exchange of natural Gas as the "physical" side of an exchange for physical transaction involving gas futures contracts. EFP shall incorporate the meaning and remedies of "Firm", provided that a party's excuse for nonperformance of its obligations to deliver or receive Gas will be governed by the rules of the relevant futures exchange regulated under the U.S. Commodity Exchange Act (7 U.S. Code 1, as amended).
- (xi) "Firm" shall mean that either party may interrupt its performance without liability only to the extent that such performance is prevented for reasons of Force Majeure; provided, however, that during Force Majeure interruptions, the party invoking Force Majeure may be responsible for any Imbalance Charges as set forth in clause (c)(iii) of this Gas Annex related to its interruption after the nomination is made to the Transporter and until the change in deliveries and/or receipts is confirmed by the Transporter.
- (xii) "Gas" shall mean any mixture of hydrocarbons and noncombustible gases in a gaseous state consisting primarily of methane.
- (xiii) "Imbalance Charges" shall mean any fees, penalties, costs or charges (in cash or in kind) assessed by a Transporter for failure to satisfy the Transporter's balance and/or nomination requirements.
- (xiv) "Interruptible" shall mean that either party may interrupt its performance at any time for any reason, whether or not caused by an event of Force Majeure, with no liability, except such interrupting party may be responsible for any Imbalance Charges as set forth in clause (c)(iii) of this Gas Annex related to its interruption after the nomination is made to the Transporter and until the change in deliveries and/or receipts is confirmed by Transporter.
- (xv) "MMBtu" shall mean one million British thermal units, which is equivalent to one dekatherm.
- (xvi) "Month" shall mean the period beginning on the first Day of the calendar month and ending immediately prior to the commencement of the first Day of the next calendar month.
- (xvii) "Payment Date" shall mean the payment date for Gas Transactions under this Gas Annex, as specified in clause (l)(5) of this Gas Annex.
- (xviii) "Receiving Transporter" shall mean the Transporter receiving Gas at a Delivery Point, or absent such receiving Transporter, the Transporter delivering Gas at a Delivery Point.
- (xix) "Scheduled Gas" shall mean the quantity of Gas confirmed by Transporter(s) for movement, transportation or management.
- (xx) "Seller" means the party delivering Gas under a Gas Transaction.
- (xxi) "Spot Price" as referred to in clause (b)(ii) of this Gas Annex shall mean the price published as the Spot Price Index for the relevant Day; provided, if there is no single price published as the Spot Price Index for such location for such Day, but there is published a range of prices, then the Spot Price shall be the average of such high and low prices. If no price or range of prices is published for such Day, then the Spot Price shall be the average of the following: (i) the price (determined as stated above) for the first Day for which a price or range of prices is published that next precedes the relevant Day; and (ii) the price (determined as stated above) for the first Day for which a price or range of prices is published that next follows the relevant Day.
- (xxii) "Spot Price Index" shall mean, with respect to a Gas Transaction, unless otherwise specified in the Confirmation for that Transaction, the "Daily Midpoint" price set forth in Gas Daily (published by Platts), or any successor publication, in the column "Daily Price Survey" under the listing applicable to the geographic location closest in proximity to the Delivery Point(s) for the relevant Day or, if an alternative index or price is specified in clause (l)(6) below, such alternative index or price.
- (xxiii) "Transporter(s)" shall mean all Gas gathering or pipeline companies, or local distribution companies, acting in the capacity of a transporter, transporting Gas for Seller or Buyer upstream or downstream, respectively, of the Delivery Point pursuant to a particular Gas Transaction.

(I) Elective Provisions

1. (a)(ii) – Outstanding Gas Transactions. This Gas Annex shall apply to the following pre-existing Gas Transactions pursuant to clause (a)(ii):

___ Option A: All Gas Transactions outstanding between the parties as of the date this Gas Annex becomes effective.

___ Option B: The Gas Transactions listed in Schedule 1 to this Gas Annex.

___ Option C: None of the Gas Transactions between the parties that were executed prior to the date this Gas Annex becomes effective.

If none of the above options is selected, Option A shall apply.

2. (a)(iii) – Outstanding Gas Credit Support

___ Outstanding Gas Credit Support held by a party in connection with Outstanding Gas Transactions shall be deemed to have been delivered under and in connection with this Agreement pursuant to clause (a)(iii).

If not checked, not applicable.

3. (b)(ii) – Performance Obligation (remedy for breach of Firm obligation)

___ Option A: Cover Standard

___ Option B: Spot Price Standard

If neither option is selected, Option A shall apply.

4. (e) – Taxes

___ Option A: Buyer Pays At and After Delivery Point

___ Option B: Seller Pays Before and At Deliver Point

If neither option is selected, Option A shall apply.

5. (f)(ii) – Payment Date

___ Option A: the later of the 25th Day of Month following Month of delivery or 10 Days after receipt of the invoice by Buyer (provided that if the Payment Date is not a Local Business Day, payment is due on the next Local Business Day following that date).

___ Option B: the later of the ___ Day of Month following Month of delivery or 10 Days after receipt of the invoice by Buyer (provided that if the Payment Date is not a Local Business Day, payment is due on the next Local Business Day following that date).

___ Option C: Notwithstanding anything to the contrary in the Schedule, payments with respect to both Gas Transactions and Power Transactions (as defined separately in the Schedule) will be netted and payable on or before the later of the 20th Day of Month following Month of delivery or 10 Days after receipt of the invoice by Buyer (provided that if the Payment Date is not a Local Business Day, payment is due on the next Local Business Day following that date).

___ Option D: Notwithstanding anything to the contrary in the Schedule, payments with respect to both Gas Transactions and Power Transactions (as defined separately in the Schedule) will be netted and payable on or before the

later of the 25th Day of Month following Month of delivery or 10 Days after receipt of the invoice by Buyer (provided that if the Payment Date is not a Local Business Day, payment is due on the next Local Business Day following that date).

If none of the above options is selected, Option A shall apply.

6. **(k)(xxii) – Alternative to Spot Price Index.** The parties have selected the following alternative index as the Spot Price Index: _____. If no index is specified, the Spot Price Index specified in clause (l)(xxi) applies.

(m) Notices for Gas Transactions

PARTY A

Invoices:

As set forth in Part 4 of the Schedule unless otherwise set forth below:

Attn: _____

Phone: _____

Facsimile: _____

Nominations:

As set forth in Part 4 of the Schedule unless otherwise set forth below:

Attn: _____

Phone: _____

Facsimile: _____

Confirmations:

As set forth in Part 4 of the Schedule unless otherwise set forth below:

Attn: _____

Phone: _____

Facsimile: _____

PARTY B

Invoices:

As set forth in Part 4 of the Schedule unless otherwise set forth below:

Attn: _____

Phone: _____

Facsimile: _____

Nominations:

As set forth in Part 4 of the Schedule unless otherwise set forth below:

Attn: _____

Phone: _____

Facsimile: _____

Confirmations:

As set forth in Part 4 of the Schedule unless otherwise set forth below:

Attn: _____

Phone: _____

Facsimile: _____

Option Exercise:

As set forth in Part 4 of the Schedule unless otherwise set forth below:

Attn: _____

Phone: _____

Facsimile: _____

Wire Transfer - or - ACH (check one box):

As set forth in Part 4 of the Schedule unless otherwise set forth below:

Bank: _____

ABA: _____

Account: _____

Other Details: _____

Option Exercise:

As set forth in Part 4 of the Schedule unless otherwise set forth below:

Attn: _____

Phone: _____

Facsimile: _____

Wire Transfer - or - ACH (check one box):

As set forth in Part 4 of the Schedule unless otherwise set forth below:

Bank: _____

ABA: _____

Account: _____

Other Details: _____

(n) Other Provisions/Modifications to this Gas Annex.

(Bilateral Form)

(ISDA Agreements Subject to New York Law Only)

ISDA[®]

International Swaps and Derivatives Association, Inc.

CREDIT SUPPORT ANNEX

to the Schedule to the
ISDA MASTER AGREEMENT

dated as of March 26, 2012

J. ARON & COMPANY

between

CITY OF LONG BEACH

..... and

("Party A")

("Party B")

This Annex supplements, forms part of, and is subject to, the above-referenced Agreement, is part of its Schedule and is a Credit Support Document under this Agreement with respect to each party.

Accordingly, the parties agree as follows:—

Paragraph 1. Interpretation

(a) **Definitions and Inconsistency.** Capitalized terms not otherwise defined herein or elsewhere in this Agreement have the meanings specified pursuant to Paragraph 12, and all references in this Annex to Paragraphs are to Paragraphs of this Annex. In the event of any inconsistency between this Annex and the other provisions of this Schedule, this Annex will prevail, and in the event of any inconsistency between Paragraph 13 and the other provisions of this Annex, Paragraph 13 will prevail.

(b) **Secured Party and Pledgor.** All references in this Annex to the "Secured Party" will be to either party when acting in that capacity and all corresponding references to the "Pledgor" will be to the other party when acting in that capacity; *provided, however*, that if Other Posted Support is held by a party to this Annex, all references herein to that party as the Secured Party with respect to that Other Posted Support will be to that party as the beneficiary thereof and will not subject that support or that party as the beneficiary thereof to provisions of law generally relating to security interests and secured parties.

Paragraph 2. Security Interest

Each party, as the Pledgor, hereby pledges to the other party, as the Secured Party, as security for its Obligations, and grants to the Secured Party a first priority continuing security interest in, lien on and right of Set-off against all Posted Collateral Transferred to or received by the Secured Party hereunder. Upon the Transfer by the Secured Party to the Pledgor of Posted Collateral, the security interest and lien granted hereunder on that Posted Collateral will be released immediately and, to the extent possible, without any further action by either party.

Paragraph 3. Credit Support Obligations

(a) **Delivery Amount.** Subject to Paragraphs 4 and 5, upon a demand made by the Secured Party on or promptly following a Valuation Date, if the Delivery Amount for that Valuation Date equals or exceeds the Pledgor's Minimum Transfer Amount, then the Pledgor will Transfer to the Secured Party Eligible Credit Support having a Value as of the date of Transfer at least equal to the applicable Delivery Amount (rounded pursuant to Paragraph 13). Unless otherwise specified in Paragraph 13, the "**Delivery Amount**" applicable to the Pledgor for any Valuation Date will equal the amount by which:

(i) the Credit Support Amount
exceeds

(ii) the Value as of that Valuation Date of all Posted Credit Support held by the Secured Party.

(b) **Return Amount.** Subject to Paragraphs 4 and 5, upon a demand made by the Pledgor on or promptly following a Valuation Date, if the Return Amount for that Valuation Date equals or exceeds the Secured Party's Minimum Transfer Amount, then the Secured Party will Transfer to the Pledgor Posted Credit Support specified by the Pledgor in that demand having a Value as of the date of Transfer as close as practicable to the applicable Return Amount (rounded pursuant to Paragraph 13). Unless otherwise specified in Paragraph 13, the "**Return Amount**" applicable to the Secured Party for any Valuation Date will equal the amount by which:

(i) the Value as of that Valuation Date of all Posted Credit Support held by the Secured Party
exceeds

(ii) the Credit Support Amount.

"**Credit Support Amount**" means, unless otherwise specified in Paragraph 13, for any Valuation Date (i) the Secured Party's Exposure for that Valuation Date plus (ii) the aggregate of all Independent Amounts applicable to the Pledgor, if any, minus (iii) all Independent Amounts applicable to the Secured Party, if any, minus (iv) the Pledgor's Threshold; *provided, however*, that the Credit Support Amount will be deemed to be zero whenever the calculation of Credit Support Amount yields a number less than zero.

Paragraph 4. Conditions Precedent, Transfer Timing, Calculations and Substitutions

(a) **Conditions Precedent.** Each Transfer obligation of the Pledgor under Paragraphs 3 and 5 and of the Secured Party under Paragraphs 3, 4(d)(ii), 5 and 6(d) is subject to the conditions precedent that:

(i) no Event of Default, Potential Event of Default or Specified Condition has occurred and is continuing with respect to the other party; and

(ii) no Early Termination Date for which any unsatisfied payment obligations exist has occurred or been designated as the result of an Event of Default or Specified Condition with respect to the other party.

(b) **Transfer Timing.** Subject to Paragraphs 4(a) and 5 and unless otherwise specified, if a demand for the Transfer of Eligible Credit Support or Posted Credit Support is made by the Notification Time, then the relevant Transfer will be made not later than the close of business on the next Local Business Day; if a demand is made after the Notification Time, then the relevant Transfer will be made not later than the close of business on the second Local Business Day thereafter.

(c) **Calculations.** All calculations of Value and Exposure for purposes of Paragraphs 3 and 6(d) will be made by the Valuation Agent as of the Valuation Time. The Valuation Agent will notify each party (or the other party, if the Valuation Agent is a party) of its calculations not later than the Notification Time on the Local Business Day following the applicable Valuation Date (or in the case of Paragraph 6(d), following the date of calculation).

(d) **Substitutions.**

(i) Unless otherwise specified in Paragraph 13, upon notice to the Secured Party specifying the items of Posted Credit Support to be exchanged, the Pledgor may, on any Local Business Day, Transfer to the Secured Party substitute Eligible Credit Support (the "Substitute Credit Support"); and

(ii) subject to Paragraph 4(a), the Secured Party will Transfer to the Pledgor the items of Posted Credit Support specified by the Pledgor in its notice not later than the Local Business Day following the date on which the Secured Party receives the Substitute Credit Support, unless otherwise specified in Paragraph 13 (the "Substitution Date"); *provided* that the Secured Party will only be obligated to Transfer Posted Credit Support with a Value as of the date of Transfer of that Posted Credit Support equal to the Value as of that date of the Substitute Credit Support.

Paragraph 5. Dispute Resolution

If a party (a "Disputing Party") disputes (I) the Valuation Agent's calculation of a Delivery Amount or a Return Amount or (II) the Value of any Transfer of Eligible Credit Support or Posted Credit Support, then (1) the Disputing Party will notify the other party and the Valuation Agent (if the Valuation Agent is not the other party) not later than the close of business on the Local Business Day following (X) the date that the demand is made under Paragraph 3 in the case of (I) above or (Y) the date of Transfer in the case of (II) above, (2) subject to Paragraph 4(a), the appropriate party will Transfer the undisputed amount to the other party not later than the close of business on the Local Business Day following (X) the date that the demand is made under Paragraph 3 in the case of (I) above or (Y) the date of Transfer in the case of (II) above, (3) the parties will consult with each other in an attempt to resolve the dispute and (4) if they fail to resolve the dispute by the Resolution Time, then:

(i) In the case of a dispute involving a Delivery Amount or Return Amount, unless otherwise specified in Paragraph 13, the Valuation Agent will recalculate the Exposure and the Value as of the Recalculation Date by:

(A) utilizing any calculations of Exposure for the Transactions (or Swap Transactions) that the parties have agreed are not in dispute;

(B) calculating the Exposure for the Transactions (or Swap Transactions) in dispute by seeking four actual quotations at mid-market from Reference Market-makers for purposes of calculating Market Quotation, and taking the arithmetic average of those obtained; *provided* that if four quotations are not available for a particular Transaction (or Swap Transaction), then fewer than four quotations may be used for that Transaction (or Swap Transaction); and if no quotations are available for a particular Transaction (or Swap Transaction), then the Valuation Agent's original calculations will be used for that Transaction (or Swap Transaction); and

(C) utilizing the procedures specified in Paragraph 13 for calculating the Value, if disputed, of Posted Credit Support.

(ii) In the case of a dispute involving the Value of any Transfer of Eligible Credit Support or Posted Credit Support, the Valuation Agent will recalculate the Value as of the date of Transfer pursuant to Paragraph 13.

Following a recalculation pursuant to this Paragraph, the Valuation Agent will notify each party (or the other party, if the Valuation Agent is a party) not later than the Notification Time on the Local Business Day following the Resolution Time. The appropriate party will, upon demand following that notice by the Valuation Agent or a resolution pursuant to (3) above and subject to Paragraphs 4(a) and 4(b), make the appropriate Transfer.

Paragraph 6. Holding and Using Posted Collateral

(a) *Care of Posted Collateral.* Without limiting the Secured Party's rights under Paragraph 6(c), the Secured Party will exercise reasonable care to assure the safe custody of all Posted Collateral to the extent required by applicable law, and in any event the Secured Party will be deemed to have exercised reasonable care if it exercises at least the same degree of care as it would exercise with respect to its own property. Except as specified in the preceding sentence, the Secured Party will have no duty with respect to Posted Collateral, including, without limitation, any duty to collect any Distributions, or enforce or preserve any rights pertaining thereto.

(b) *Eligibility to Hold Posted Collateral; Custodians.*

(i) *General.* Subject to the satisfaction of any conditions specified in Paragraph 13 for holding Posted Collateral, the Secured Party will be entitled to hold Posted Collateral or to appoint an agent (a "Custodian") to hold Posted Collateral for the Secured Party. Upon notice by the Secured Party to the Pledgor of the appointment of a Custodian, the Pledgor's obligations to make any Transfer will be discharged by making the Transfer to that Custodian. The holding of Posted Collateral by a Custodian will be deemed to be the holding of that Posted Collateral by the Secured Party for which the Custodian is acting.

(ii) *Failure to Satisfy Conditions.* If the Secured Party or its Custodian fails to satisfy any conditions for holding Posted Collateral, then upon a demand made by the Pledgor, the Secured Party will, not later than five Local Business Days after the demand, Transfer or cause its Custodian to Transfer all Posted Collateral held by it to a Custodian that satisfies those conditions or to the Secured Party if it satisfies those conditions.

(iii) *Liability.* The Secured Party will be liable for the acts or omissions of its Custodian to the same extent that the Secured Party would be liable hereunder for its own acts or omissions.

(c) *Use of Posted Collateral.* Unless otherwise specified in Paragraph 13 and without limiting the rights and obligations of the parties under Paragraphs 3, 4(d)(ii), 5, 6(d) and 8, if the Secured Party is not a Defaulting Party or an Affected Party with respect to a Specified Condition and no Early Termination Date has occurred or been designated as the result of an Event of Default or Specified Condition with respect to the Secured Party, then the Secured Party will, notwithstanding Section 9-207 of the New York Uniform Commercial Code, have the right to:

(i) sell, pledge, rehypothecate, assign, invest, use, commingle or otherwise dispose of, or otherwise use in its business any Posted Collateral it holds, free from any claim or right of any nature whatsoever of the Pledgor, including any equity or right of redemption by the Pledgor; and

(ii) register any Posted Collateral in the name of the Secured Party, its Custodian or a nominee for either.

For purposes of the obligation to Transfer Eligible Credit Support or Posted Credit Support pursuant to Paragraphs 3 and 5 and any rights or remedies authorized under this Agreement, the Secured Party will be deemed to continue to hold all Posted Collateral and to receive Distributions made thereon, regardless of whether the Secured Party has exercised any rights with respect to any Posted Collateral pursuant to (i) or (ii) above.

(d) *Distributions and Interest Amount.*

(i) *Distributions.* Subject to Paragraph 4(a), if the Secured Party receives or is deemed to receive Distributions on a Local Business Day, it will Transfer to the Pledgor not later than the following Local Business Day any Distributions it receives or is deemed to receive to the extent that a Delivery Amount would not be created or increased by that Transfer, as calculated by the Valuation Agent (and the date of calculation will be deemed to be a Valuation Date for this purpose).

(ii) **Interest Amount.** Unless otherwise specified in Paragraph 13 and subject to Paragraph 4(a), in lieu of any interest, dividends or other amounts paid or deemed to have been paid with respect to Posted Collateral in the form of Cash (all of which may be retained by the Secured Party), the Secured Party will Transfer to the Pledgor at the times specified in Paragraph 13 the Interest Amount to the extent that a Delivery Amount would not be created or increased by that Transfer, as calculated by the Valuation Agent (and the date of calculation will be deemed to be a Valuation Date for this purpose). The Interest Amount or portion thereof not Transferred pursuant to this Paragraph will constitute Posted Collateral in the form of Cash and will be subject to the security interest granted under Paragraph 2.

Paragraph 7. Events of Default

For purposes of Section 5(a)(iii)(1) of this Agreement, an Event of Default will exist with respect to a party if:

- (i) that party fails (or fails to cause its Custodian) to make, when due, any Transfer of Eligible Collateral, Posted Collateral or the Interest Amount, as applicable, required to be made by it and that failure continues for two Local Business Days after notice of that failure is given to that party;
- (ii) that party fails to comply with any restriction or prohibition specified in this Annex with respect to any of the rights specified in Paragraph 6(c) and that failure continues for five Local Business Days after notice of that failure is given to that party; or
- (iii) that party fails to comply with or perform any agreement or obligation other than those specified in Paragraphs 7(i) and 7(ii) and that failure continues for 30 days after notice of that failure is given to that party.

Paragraph 8. Certain Rights and Remedies

(a) **Secured Party's Rights and Remedies.** If at any time (1) an Event of Default or Specified Condition with respect to the Pledgor has occurred and is continuing or (2) an Early Termination Date has occurred or been designated as the result of an Event of Default or Specified Condition with respect to the Pledgor, then, unless the Pledgor has paid in full all of its Obligations that are then due, the Secured Party may exercise one or more of the following rights and remedies:

- (i) all rights and remedies available to a secured party under applicable law with respect to Posted Collateral held by the Secured Party;
- (ii) any other rights and remedies available to the Secured Party under the terms of Other Posted Support, if any;
- (iii) the right to Set-off any amounts payable by the Pledgor with respect to any Obligations against any Posted Collateral or the Cash equivalent of any Posted Collateral held by the Secured Party (or any obligation of the Secured Party to Transfer that Posted Collateral); and
- (iv) the right to liquidate any Posted Collateral held by the Secured Party through one or more public or private sales or other dispositions with such notice, if any, as may be required under applicable law, free from any claim or right of any nature whatsoever of the Pledgor, including any equity or right of redemption by the Pledgor (with the Secured Party having the right to purchase any or all of the Posted Collateral to be sold) and to apply the proceeds (or the Cash equivalent thereof) from the liquidation of the Posted Collateral to any amounts payable by the Pledgor with respect to any Obligations in that order as the Secured Party may elect.

Each party acknowledges and agrees that Posted Collateral in the form of securities may decline speedily in value and is of a type customarily sold on a recognized market, and, accordingly, the Pledgor is not entitled to prior notice of any sale of that Posted Collateral by the Secured Party, except any notice that is required under applicable law and cannot be waived.

(b) *Pledgor's Rights and Remedies.* If at any time an Early Termination Date has occurred or been designated as the result of an Event of Default or Specified Condition with respect to the Secured Party, then (except in the case of an Early Termination Date relating to less than all Transactions (or Swap Transactions) where the Secured Party has paid in full all of its obligations that are then due under Section 6(e) of this Agreement):

(i) the Pledgor may exercise all rights and remedies available to a pledgor under applicable law with respect to Posted Collateral held by the Secured Party;

(ii) the Pledgor may exercise any other rights and remedies available to the Pledgor under the terms of Other Posted Support, if any;

(iii) the Secured Party will be obligated immediately to Transfer all Posted Collateral and the Interest Amount to the Pledgor; and

(iv) to the extent that Posted Collateral or the Interest Amount is not so Transferred pursuant to (iii) above, the Pledgor may:

(A) Set-off any amounts payable by the Pledgor with respect to any Obligations against any Posted Collateral or the Cash equivalent of any Posted Collateral held by the Secured Party (or any obligation of the Secured Party to Transfer that Posted Collateral); and

(B) to the extent that the Pledgor does not Set-off under (iv)(A) above, withhold payment of any remaining amounts payable by the Pledgor with respect to any Obligations, up to the Value of any remaining Posted Collateral held by the Secured Party, until that Posted Collateral is Transferred to the Pledgor.

(c) *Deficiencies and Excess Proceeds.* The Secured Party will Transfer to the Pledgor any proceeds and Posted Credit Support remaining after liquidation, Set-off and/or application under Paragraphs 8(a) and 8(b) after satisfaction in full of all amounts payable by the Pledgor with respect to any Obligations; the Pledgor in all events will remain liable for any amounts remaining unpaid after any liquidation, Set-off and/or application under Paragraphs 8(a) and 8(b).

(d) *Final Returns.* When no amounts are or thereafter may become payable by the Pledgor with respect to any Obligations (except for any potential liability under Section 2(d) of this Agreement), the Secured Party will Transfer to the Pledgor all Posted Credit Support and the Interest Amount, if any.

Paragraph 9. Representations

Each party represents to the other party (which representations will be deemed to be repeated as of each date on which it, as the Pledgor, Transfers Eligible Collateral) that:

(i) it has the power to grant a security interest in and lien on any Eligible Collateral it Transfers as the Pledgor and has taken all necessary actions to authorize the granting of that security interest and lien;

(ii) it is the sole owner of or otherwise has the right to Transfer all Eligible Collateral it Transfers to the Secured Party hereunder, free and clear of any security interest, lien, encumbrance or other restrictions other than the security interest and lien granted under Paragraph 2;

(iii) upon the Transfer of any Eligible Collateral to the Secured Party under the terms of this Annex, the Secured Party will have a valid and perfected first priority security interest therein (assuming that any central clearing corporation or any third-party financial intermediary or other entity not within the control of the Pledgor involved in the Transfer of that Eligible Collateral gives the notices and takes the action required of it under applicable law for perfection of that interest); and

(iv) the performance by it of its obligations under this Annex will not result in the creation of any security interest, lien or other encumbrance on any Posted Collateral other than the security interest and lien granted under Paragraph 2.

Paragraph 10. Expenses

- (a) **General.** Except as otherwise provided in Paragraphs 10(b) and 10(c), each party will pay its own costs and expenses in connection with performing its obligations under this Annex and neither party will be liable for any costs and expenses incurred by the other party in connection herewith.
- (b) **Posted Credit Support.** The Pledgor will promptly pay when due all taxes, assessments or charges of any nature that are imposed with respect to Posted Credit Support held by the Secured Party upon becoming aware of the same, regardless of whether any portion of that Posted Credit Support is subsequently disposed of under Paragraph 6(c), except for those taxes, assessments and charges that result from the exercise of the Secured Party's rights under Paragraph 6(c).
- (c) **Liquidation/Application of Posted Credit Support.** All reasonable costs and expenses incurred by or on behalf of the Secured Party or the Pledgor in connection with the liquidation and/or application of any Posted Credit Support under Paragraph 8 will be payable, on demand and pursuant to the Expenses Section of this Agreement, by the Defaulting Party or, if there is no Defaulting Party, equally by the parties.

Paragraph 11. Miscellaneous

- (a) **Default Interest.** A Secured Party that fails to make, when due, any Transfer of Posted Collateral or the Interest Amount will be obligated to pay the Pledgor (to the extent permitted under applicable law) an amount equal to interest at the Default Rate multiplied by the Value of the items of property that were required to be Transferred, from (and including) the date that Posted Collateral or Interest Amount was required to be Transferred to (but excluding) the date of Transfer of that Posted Collateral or Interest Amount. This interest will be calculated on the basis of daily compounding and the actual number of days elapsed.
- (b) **Further Assurances.** Promptly following a demand made by a party, the other party will execute, deliver, file and record any financing statement, specific assignment or other document and take any other action that may be necessary or desirable and reasonably requested by that party to create, preserve, perfect or validate any security interest or lien granted under Paragraph 2, to enable that party to exercise or enforce its rights under this Annex with respect to Posted Credit Support or an Interest Amount or to effect or document a release of a security interest on Posted Collateral or an Interest Amount.
- (c) **Further Protection.** The Pledgor will promptly give notice to the Secured Party of, and defend against, any suit, action, proceeding or lien that involves Posted Credit Support Transferred by the Pledgor or that could adversely affect the security interest and lien granted by it under Paragraph 2, unless that suit, action, proceeding or lien results from the exercise of the Secured Party's rights under Paragraph 6(c).
- (d) **Good Faith and Commercially Reasonable Manner.** Performance of all obligations under this Annex, including, but not limited to, all calculations, valuations and determinations made by either party, will be made in good faith and in a commercially reasonable manner.
- (e) **Demands and Notices.** All demands and notices made by a party under this Annex will be made as specified in the Notices Section of this Agreement, except as otherwise provided in Paragraph 13.
- (f) **Specifications of Certain Matters.** Anything referred to in this Annex as being specified in Paragraph 13 also may be specified in one or more Confirmations or other documents and this Annex will be construed accordingly.

Paragraph 12. Definitions

As used in this Annex:—

“*Cash*” means the lawful currency of the United States of America.

“*Credit Support Amount*” has the meaning specified in Paragraph 3.

“*Custodian*” has the meaning specified in Paragraphs 6(b)(i) and 13.

“*Delivery Amount*” has the meaning specified in Paragraph 3(a).

“*Disputing Party*” has the meaning specified in Paragraph 5.

“*Distributions*” means with respect to Posted Collateral other than Cash, all principal, interest and other payments and distributions of cash or other property with respect thereto, regardless of whether the Secured Party has disposed of that Posted Collateral under Paragraph 6(c). Distributions will not include any item of property acquired by the Secured Party upon any disposition or liquidation of Posted Collateral or, with respect to any Posted Collateral in the form of Cash, any distributions on that collateral, unless otherwise specified herein.

“*Eligible Collateral*” means, with respect to a party, the items, if any, specified as such for that party in Paragraph 13.

“*Eligible Credit Support*” means Eligible Collateral and Other Eligible Support.

“*Exposure*” means for any Valuation Date or other date for which Exposure is calculated and subject to Paragraph 5 in the case of a dispute, the amount, if any, that would be payable to a party that is the Secured Party by the other party (expressed as a positive number) or by a party that is the Secured Party to the other party (expressed as a negative number) pursuant to Section 6(e)(ii)(2)(A) of this Agreement as if all Transactions (or Swap Transactions) were being terminated as of the relevant Valuation Time; *provided* that Market Quotation will be determined by the Valuation Agent using its estimates at mid-market of the amounts that would be paid for Replacement Transactions (as that term is defined in the definition of “Market Quotation”).

“*Independent Amount*” means, with respect to a party, the amount specified as such for that party in Paragraph 13; if no amount is specified, zero.

“*Interest Amount*” means, with respect to an Interest Period, the aggregate sum of the amounts of interest calculated for each day in that Interest Period on the principal amount of Posted Collateral in the form of Cash held by the Secured Party on that day, determined by the Secured Party for each such day as follows:

- (x) the amount of that Cash on that day; multiplied by
- (y) the Interest Rate in effect for that day; divided by
- (z) 360.

“*Interest Period*” means the period from (and including) the last Local Business Day on which an Interest Amount was Transferred (or, if no Interest Amount has yet been Transferred, the Local Business Day on which Posted Collateral in the form of Cash was Transferred to or received by the Secured Party) to (but excluding) the Local Business Day on which the current Interest Amount is to be Transferred.

“*Interest Rate*” means the rate specified in Paragraph 13.

“*Local Business Day*”, unless otherwise specified in Paragraph 13, has the meaning specified in the Definitions Section of this Agreement, except that references to a payment in clause (b) thereof will be deemed to include a Transfer under this Annex.

"Minimum Transfer Amount" means, with respect to a party, the amount specified as such for that party in Paragraph 13; if no amount is specified, zero.

"Notification Time" has the meaning specified in Paragraph 13.

"Obligations" means, with respect to a party, all present and future obligations of that party under this Agreement and any additional obligations specified for that party in Paragraph 13.

"Other Eligible Support" means, with respect to a party, the items, if any, specified as such for that party in Paragraph 13.

"Other Posted Support" means all Other Eligible Support Transferred to the Secured Party that remains in effect for the benefit of that Secured Party.

"Pledgor" means either party, when that party (i) receives a demand for or is required to Transfer Eligible Credit Support under Paragraph 3(a) or (ii) has Transferred Eligible Credit Support under Paragraph 3(a).

"Posted Collateral" means all Eligible Collateral, other property, Distributions, and all proceeds thereof that have been Transferred to or received by the Secured Party under this Annex and not Transferred to the Pledgor pursuant to Paragraph 3(b), 4(d)(ii) or 6(d)(i) or released by the Secured Party under Paragraph 8. Any Interest Amount or portion thereof not Transferred pursuant to Paragraph 6(d)(ii) will constitute Posted Collateral in the form of Cash.

"Posted Credit Support" means Posted Collateral and Other Posted Support.

"Recalculation Date" means the Valuation Date that gives rise to the dispute under Paragraph 5; *provided, however,* that if a subsequent Valuation Date occurs under Paragraph 3 prior to the resolution of the dispute, then the "Recalculation Date" means the most recent Valuation Date under Paragraph 3.

"Resolution Time" has the meaning specified in Paragraph 13.

"Return Amount" has the meaning specified in Paragraph 3(b).

"Secured Party" means either party, when that party (i) makes a demand for or is entitled to receive Eligible Credit Support under Paragraph 3(a) or (ii) holds or is deemed to hold Posted Credit Support.

"Specified Condition" means, with respect to a party, any event specified as such for that party in Paragraph 13.

"Substitute Credit Support" has the meaning specified in Paragraph 4(d)(i).

"Substitution Date" has the meaning specified in Paragraph 4(d)(ii).

"Threshold" means, with respect to a party, the amount specified as such for that party in Paragraph 13; if no amount is specified, zero.

"Transfer" means, with respect to any Eligible Credit Support, Posted Credit Support or Interest Amount, and in accordance with the instructions of the Secured Party, Pledgor or Custodian, as applicable:

(i) in the case of Cash, payment or delivery by wire transfer into one or more bank accounts specified by the recipient;

(ii) in the case of certificated securities that cannot be paid or delivered by book-entry, payment or delivery in appropriate physical form to the recipient or its account accompanied by any duly executed instruments of transfer, assignments in blank, transfer tax stamps and any other documents necessary to constitute a legally valid transfer to the recipient;

(iii) in the case of securities that can be paid or delivered by book-entry, the giving of written instructions to the relevant depository institution or other entity specified by the recipient, together with a written copy thereof to the recipient, sufficient if complied with to result in a legally effective transfer of the relevant interest to the recipient; and

(iv) in the case of Other Eligible Support or Other Posted Support, as specified in Paragraph 13.

“Valuation Agent” has the meaning specified in Paragraph 13.

“Valuation Date” means each date specified in or otherwise determined pursuant to Paragraph 13.

“Valuation Percentage” means, for any item of Eligible Collateral, the percentage specified in Paragraph 13.

“Valuation Time” has the meaning specified in Paragraph 13.

“Value” means for any Valuation Date or other date for which Value is calculated and subject to Paragraph 5 in the case of a dispute, with respect to:

- (i) Eligible Collateral or Posted Collateral that is:
 - (A) Cash, the amount thereof; and
 - (B) a security, the bid price obtained by the Valuation Agent multiplied by the applicable Valuation Percentage, if any;
- (ii) Posted Collateral that consists of items that are not specified as Eligible Collateral, zero; and
- (iii) Other Eligible Support and Other Posted Support, as specified in Paragraph 13.

**CREDIT SUPPORT ANNEX
to the SCHEDULE
to the
MASTER AGREEMENT
dated as of**

**March 26, 2012
between**

**J.ARON & COMPANY
("Aron")**

and

**CITY OF LONG BEACH
("Counterparty")**

Paragraph 13. Elections and Variables

- (a) *Security Interest for "Obligations"*. The term "Obligations" as used in this Annex includes the following additional obligations:

With respect to Aron: Not Applicable.

With respect to Counterparty: Not Applicable.

- (b) *Credit Support Obligations.*

- (i) *Delivery Amount, Return Amount and Credit Support Amount.*

(A) *"Delivery Amount"* has the meaning specified in Paragraph 3(a).

(B) *"Return Amount"* has the meaning specified in Paragraph 3(b).

(C) *"Credit Support Amount"* means, for any Valuation Date (i) the Secured Party's Exposure for that Valuation Date plus (ii) the aggregate of all Independent Amounts applicable to the Pledgor, if any, minus (iii) the Pledgor's Threshold; provided, however, that (x) in the case where the sum of the Independent Amounts applicable to the Pledgor exceeds zero, the Credit Support Amount will not be less than the sum of all Independent Amounts applicable to the Pledgor and (y) in all other cases, the Credit Support Amount will be deemed to be zero whenever the calculation of Credit Support Amount yields an amount less than zero.

- (ii) **Eligible Collateral.** The following items will qualify as "Eligible Collateral" for the party specified:

		<i>Aron</i>	<i>Counterparty</i>	<i>Valuation Percentage</i>
(A)	Cash	Yes	Yes	100%

(iii) **Other Eligible Support.** The following items will qualify as "Other Eligible Support" for the party specified: A Letter of Credit in the form of Annex A as defined in Paragraph 13(l) will qualify as "**Other Eligible Support**" for either party. The Valuation Percentage shall be 100% of the Value of the Other Eligible Support unless (i) a Letter of Credit Default shall apply with respect to such Letter of Credit, or (ii) fewer than twenty (20) Business Days remain prior to the expiration of such Letter of Credit, in either of which case the Valuation Percentage shall be zero.

- (iv) **Thresholds.**

(A) "**Independent Amount**" means with respect to Aron: None, unless otherwise specified in a Confirmation.

"**Independent Amount**" means with respect to Counterparty: None, unless otherwise specified in a Confirmation.

- (B)

"**Threshold**" means with respect to Aron and Counterparty, the amount determined on the basis of the lower of the Long Term Debt Ratings in the Table set forth below: provided, however, that if (i) a party has no Long Term Debt Ratings or (ii) an Event of Default has occurred and is continuing with respect to such party, such party's Threshold shall be zero.

S&P Long Term Debt Rating	Moody's Long Term Debt Rating	Threshold (USD)
A and above	A2 and above	30 Million
A-	A3	25 Million
BBB+	Baa1	20 Million
BBB	Baa2	10 Million
BBB-	Baa3	5 Million
BBB- (Credit Watch) and below	Baa3 (Credit Watch) and below	Zero

(C) "**Minimum Transfer Amount**" means with respect to Aron and Counterparty, USD250,000; provided, however, that if an Event of Default has occurred and is continuing with respect to a party, the Minimum Transfer Amount with respect to such party shall be zero.

(D) **Rounding.** The Delivery Amount and the Return Amount will be rounded up and down, respectively, to the nearest integral multiple of USD100,000.

(c) *Valuation and Timing.*

- (i) "**Valuation Agent**" means Aron unless an Event of Default has occurred and is continuing with respect to Aron, in which case Counterparty shall appoint a Leading Dealer to act as substitute Valuation Agent for so long as such Event of Default is continuing, unless an Event of Default has also occurred and is continuing with respect to Counterparty, in which case Aron is the Valuation Agent.
- (ii) "**Valuation Date**" means each day, provided, however that a Valuation Date shall be a Local Business Day for both parties.
- (iii) "**Valuation Time**" means the close of business in the Relevant Market on the Local Business Day immediately preceding the Valuation Date or date of calculation as applicable; provided, however, that the calculations of Value and Exposure will, as far as practicable, be made as of approximately the same time on the same date.
- (iv) "**Leading Dealer**" means a leading dealer in the relevant market that is not an Affiliate of either of the parties.

For the purposes of this provision, "Relevant Market" means:

- (i) with respect to the calculation of Value, the principal market in which the relevant Eligible Credit Support is traded; and
- (ii) with respect to the calculation of Exposure, the location most closely associated with the relevant Transaction;

each as determined by the Valuation Agent, or as otherwise agreed between the parties.

- (v) "**Notification Time**" means no later than 1:00 p.m., New York time, on a Local Business Day; provided, however, that the Valuation Agent will only give notice of its calculations to a party upon request by such party. Notwithstanding Paragraph 4(b), if on any Local Business Day a demand for Transfer of Eligible Credit Support or Posted Credit Support is made by the Notification Time, then the relevant Transfer will be made by the close of business on that Local Business Day and, if any such demand is made after the Notification Time, the relevant Transfer will be made by the close of business on the next Local Business Day.

- (d) **Conditions Precedent and Secured Party's Rights and Remedies.** For the purposes of Paragraphs 8(a)(2) and 8(b), each Termination Event for which all Transactions are Affected Transactions will constitute a Specified Condition. For all other purposes of this Annex, the following Termination

Event(s) will be a "Specified Condition" for the party specified (that party being the Affected Party if the Termination Event occurs with respect to that party); With respect to Aron and Counterparty, Not applicable.

(e) ***Substitution.***

- (i) ***"Substitution Date"*** has the meaning specified in Paragraph 4(d)(ii).
- (ii) ***Consent.*** The Pledgor is not required to obtain the Secured Party's consent for any substitutions pursuant to Paragraph 4(d).

(f) ***Dispute Resolution.***

- (i) ***"Resolution Time"*** means 1:00 p.m., New York time, on the Local Business Day following the date on which the notice is given that gives rise to a dispute under Paragraph 5.
- (ii) ***"Value"***. For the purpose of Paragraph 5(i)(C) and 5(ii), the Value of Posted Credit Support will be calculated as follows:
 - (A) The Value of Cash will be the face amount thereof, multiplied by the applicable Valuation Percentage.
- (iii) ***"Alternative"***. The provisions of Paragraph 5 will apply.

(g) ***Holding and Using Posted Collateral.***

- (i) ***Eligibility to Hold Posted Collateral.*** Aron will be entitled to hold Posted Collateral pursuant to Paragraph 6(b), provided that the following conditions applicable to it are satisfied:

- (A) Aron is not a Defaulting Party.

Counterparty will be entitled to hold Posted Collateral pursuant to Paragraph 6(b), provided that the following conditions applicable to it are satisfied:

- (A) Counterparty is not a Defaulting Party.

- (ii) ***Use of Posted Collateral.*** The provisions of Paragraph 6(c) will apply to Aron and Counterparty.

(h) ***Distributions and Interest Amount.***

- (i) ***Interest Rate.*** The "Interest Rate" will be the Federal Funds (Effective) rate published in N.Y. Federal Reserve Statistical Release H.15(519) for that day, or such other recognized source used for the purpose of displaying such rate. If the Interest Rate for the relevant day is a negative number, such Interest Rate will be deemed to be zero.
- (ii) ***Transfer of Interest Amount.*** The Transfer of the Interest Amount will be made on or prior to the fifth Local Business Day of each calendar month.

- (iii) *Alternative to Interest Amount.* Not Applicable.
- (iv) *Interest Period.* The definition of “**Interest Period**” in Paragraph 12 shall be deleted and replaced by the following:-

“*Interest Period*” means the period from (and including) the first Local Business Day of a calendar month to (and excluding) the first Local Business Day of the following calendar month.”

(i) *Other Eligible Support and Other Posted Support.*

(i) “*Value*” with respect to Other Eligible Support and Other Posted Support means: the Valuation Percentage multiplied by the stated amount (undrawn portion) of any Letter of Credit maintained by the Pledgor (or its Credit Support Provider) for the benefit of the Secured Party.

(ii) “*Transfer*” with respect to Other Eligible Support and Other Posted Support means:

(1) For purposes of Paragraph 3(a), delivery of the Letter of Credit by the Pledgor or issuer of the Letter of Credit to the Secured Party at the address of the Secured Party specified in the “Notices” Section of this Agreement, or delivery of an executed amendment to such Letter of Credit in form and substance satisfactory to the Secured Party (extending the term or increasing the amount available to the Secured Party thereunder) by the Pledgor or the issuer of the Letter of Credit to the Secured Party at the address of the Secured Party specified in the “Notices” Section of this Agreement; and

(2) For purposes of Paragraph 3(b), by the return of an outstanding Letter of Credit by the Secured Party to the Pledgor, at the address of the Pledgor specified in the “Notices” Section of this Agreement, or delivery of an executed amendment to the Letter of Credit in form and substance satisfactory to the Secured Party (reducing the amount available to the Secured Party thereunder) by the Pledgor or the issuer of the Letter of Credit to the Secured Party at the Secured Party’s address specified in the “Notices” Section of this Agreement. If a transfer is to be effected by a reduction in the amount of an outstanding Letter of Credit previously issued for the benefit of the Secured Party, the Secured Party shall not unreasonably withhold its consent to a commensurate reduction in the amount of such Letter of Credit and shall take such action as is reasonably necessary to effectuate such reduction.

(iii) **Letter of Credit Provisions.** Other Eligible Support and Other Posted Support provided in the form of a Letter of Credit shall be subject to the following provisions:

(1) Unless otherwise agreed in writing by the parties, each Letter of Credit shall be provided in accordance with the provisions of this Agreement, and each Letter of Credit shall be maintained for the benefit of the Secured Party. The Pledgor shall (i) renew or cause renewal of each outstanding Letter of Credit on a timely basis as provided in the relevant Letter of Credit, (ii) if the bank that issued an outstanding Letter of Credit has indicated its intent not to renew such Letter of Credit, provide a substitute Letter of Credit at least twenty (20) Business Days

prior to the expiration of the outstanding Letter of Credit, and (iii) if a bank issuing a Letter of Credit shall fail to honor the Secured Party's properly documented request to draw on an outstanding Letter of Credit, provide for the benefit of the Secured Party, (x) a substitute Letter of Credit, that is issued by a bank acceptable to the Secured Party, other than the bank failing to honor the outstanding Letter of Credit, or (y) Eligible Collateral, in each case within one (1) Business Day after the Pledgor receives notice of such failure; provided that, at the time the Pledgor is required to perform in accordance with (i), (ii), or (iii) above, the Delivery Amount applicable to the Pledgor equals or exceeds the Pledgor's Minimum Transfer Amount.

- (2) As one method of providing Eligible Credit Support, the Pledgor may increase the amount of an outstanding Letter of Credit or establish one or more additional Letters of Credit.
- (3)
 - (i) A Letter of Credit shall provide that the Secured Party may draw upon the Letter of Credit in an amount (up to the face amount for which the Letter of Credit has been issued) that is equal to all amounts that are due and owing from the Pledgor but have not been paid to the Secured Party within the time allowed for such payments under this Agreement (including any related notice or grace period or both). A Letter of Credit shall provide that a drawing be made on the Letter of Credit upon submission to the bank issuing the Letter of Credit of one or more certificates specifying the amounts due and owing to the Secured Party in accordance with the specific requirements of the Letter of Credit.
 - (ii) If the Pledgor shall fail to renew, substitute, or sufficiently increase the amount of an outstanding Letter of Credit (as the case may be), or establish one or more additional Letters of Credit, or otherwise provide sufficient Eligible Credit Support and if the Delivery Amount applicable to the Pledgor equals or exceeds the Pledgor's Minimum Transfer Amount as a result of such failure, then the Secured Party may draw on the entire, undrawn portion of any outstanding Letter of Credit upon submission to the bank issuing such Letter of Credit of one or more certificates specifying the amounts due and owing to the Secured Party in accordance with the specific requirements of the Letter of Credit. The Pledgor shall remain liable for any amounts due and owing to the Secured Party and remaining unpaid after the application of the amounts so drawn by the Secured Party.
- (4) If a party's Credit Support Provider shall furnish a Letter of Credit hereunder, the amount otherwise required under such Letter of Credit may at the option of such Credit Support Provider be reduced by the amount of any Letter of Credit established by such party (but only for such time as such party's Letter of Credit shall be in effect). If a party shall be required to furnish a Letter of Credit hereunder, the amount otherwise required under such Letter of Credit may at the option of such party be reduced by the amount of any Letter of Credit established by such party's Credit Support Provider (but only for such time as such Credit Support Provider's Letter of Credit shall be in effect).
- (5) Upon the occurrence of a Letter of Credit Default, the Pledgor agrees to deliver a substitute Letter of Credit or other Eligible Credit Support to the Secured Party in

an amount at least equal to that of the Letter of Credit to be replaced on or before the first (1st) Business Day after written demand by the Secured Party (or the third (3rd) Business Day if only clause (i) under the definition of Letter of Credit Default applies).

- (6) Notwithstanding Paragraph 10, in all cases, the costs and expenses (including but not limited to the reasonable costs, expenses, and external attorneys' fees of the Secured Party) of establishing, renewing, substituting, canceling, increasing, and reducing the amount of (as the case may be) one or more Letters of Credit shall be borne by the Pledgor.

(iv) **Certain Rights and Remedies.**

- (1) **Secured Party's Rights and Remedies.** For purposes of Paragraph 8(a)(ii), the Secured Party may draw on any outstanding Letter of Credit (Other Posted Support) in an amount equal to any amounts payable by the Pledgor with respect to any Obligations.

- (2) **Pledgor's Rights and Remedies.** For purposes of Paragraph 8(b)(ii), (i) the Secured Party will be obligated immediately to Transfer any Letter of Credit (Other Posted Support) to the Pledgor and (ii) the Pledgor may do any one or more the following: (x) to the extent that the Letter of Credit (Other Posted Support) is not Transferred to the Pledgor as required pursuant to (i) above, Set-off any amounts payable by the Pledgor with respect to any Obligations against any such Letter of Credit (Other Posted Support) held by the Secured Party and to the extent its rights to Set-off are not exercised, withhold payment of any remaining amounts payable by the Pledgor with respect to any Obligations, up to the Value of any remaining Posted Collateral and the Value of any Letter of Credit (Other Posted Support) held by the Secured Party, until any such Posted Collateral and such Letter of Credit (Other Posted Support) is transferred to the Pledgor; and (y) exercise rights and remedies available to the Pledgor under the terms of the Letter of Credit..

(j) ***Demands and Notices.***

All demands, specifications and notices under this Annex will be made pursuant to the Notices Section of this Agreement, unless otherwise specified here:

With respect to Aron:	J. Aron & Company 200 West Street New York, New York 10282-2198 Telephone: (212) 902-1444 Facsimile: (212) 346-4237 Attention: Collateral Management E-mail: gs-margin-calls-ny@ny.email.gs.com
With respect to Counterparty:	City of Long Beach Attention: Director - Gas and Oil Department 2400 E. Spring Street Long Beach, CA 90806 Facsimile: 562-570-2008 Telephone: 562-570-2015

(k) *Addresses for Transfers.*

Aron: To be specified by Aron in writing.

Counterparty: To be specified by Counterparty in writing.

(l) *Other Provisions:*

(i) Paragraph 7 Subparagraph (i) **Events of Default** is hereby amended by deleting the words "two Local Business Days" in the third line thereof, and replacing them with "one Local Business Day".

(ii) *No offset.* On any Valuation Date, if either (i) each party is required to make a Transfer under Paragraph 3(a) or (ii) each party is required to make a Transfer under Paragraph 3(b), then the amounts of those obligations will not offset each other.

(iii) Paragraph 12 is hereby amended by the addition of the following definitions:

"Letter of Credit" shall mean an irrevocable, transferable, standby letter of credit, issued by a major U.S. commercial bank or a foreign bank with a U.S. branch office with a Credit Rating of at least "A" by S&P and "A2" by Moody's, net capital in excess of one billion dollars (\$1,000,000,000) and that is otherwise acceptable to the Secured Party in its sole discretion, in the form set forth in Schedule 1 hereto, with such changes to the terms in that form as the issuing bank may require and as may be acceptable to the Secured Party in its sole discretion. Pledgor shall provide Secured Party with no less than 5 Local Business Days' notice of the relevant contact information for Pledgor's proposed issuing bank, including, without limitation, the name, address of, and individual contact's telephone number at, such bank.

"Letter of Credit Default" shall mean with respect to an outstanding Letter of Credit, the occurrence of any of the following events: (i) the issuer of such Letter of Credit shall fail to maintain a Credit Rating of at least "A" by S&P or "A2" by Moody's; (ii) the issuer of the Letter of Credit shall fail to comply with or perform its obligations under such Letter of Credit; (iii) the issuer of such Letter of Credit shall disaffirm, disclaim, repudiate or reject, in whole or in part, or challenge the validity of, such Letter of Credit; (iv) such Letter of Credit shall expire or terminate, or shall fail and cease to be in full force and effect at any time during the term of this Agreement, or fail to be renewed; or (v) any event analogous to an event specified in Section 5(a)(vii) of this Agreement shall occur with respect to the issuer of such Letter of Credit agreement.

"Long Term Debt Ratings" means the rating assigned by either S&P or Moody's to the long-term, senior, unsecured, unsubordinated indebtedness of (i) with respect to Aron, Aron's Credit Support Provider, and (ii) with respect to Counterparty, Counterparty's Gas Revenue Fund

"Moody's" means Moody's Investors Service, Inc. including any official successor to Moody's.

"S&P" mean Standard & Poor's Rating Group, a division of McGraw-Hill, Inc., including any official successor to S&P.

IN WITNESS WHEREOF the parties have executed this Annex as of the date specified on the first page hereof.

J.ARON & COMPANY

JK

CITY OF LONG BEACH

S. Rudov
Name: Susan Rudov
Title: Attorney In Fact
Date: March 30 2012

Patrick H. West Assistant City Manager
Name: Patrick H. West
Title: City Manager
Date: 4/16/12
EXECUTED PURSUANT TO SECTION 301 OF THE CITY CHARTER.

APPROVED AS TO FORM

4.5 2012
ROBERT F. SHANNON, City Attorney
By *[Signature]*
RICHARD ANTHONY
DEPUTY CITY ATTORNEY

Annex A

WE HEREBY ESTABLISH OUR IRREVOCABLE STAND-BY LETTER OF CREDIT
NO. _____

IN FAVOR OF:

J. ARON & COMPANY
30 Hudson Street 39th Floor
Jersey City, NJ 07302
Attn : Do Tom
Telex : 6720148 GSPNY

BY ORDER AND FOR THE ACCOUNT OF:
(insert full style and address)

FOR AN AMOUNT OF:

US DOLLARS _____
(UNITED STATES DOLLARS _____)

AVAILABLE FOR PAYMENT AT SIGHT UPON PRESENTATION AT OUR COUNTERS IN (insert
city and country where documents are to be presented) OF THE FOLLOWING DOCUMENT:

STATEMENT SIGNED BY A PURPORTEDLY AUTHORIZED REPRESENTATIVE OF J. ARON &
COMPANY CERTIFYING THAT (insert your company name) HAS NOT PERFORMED IN
ACCORDANCE WITH THE TERMS OF AN AGREEMENT(S) BETWEEN J. ARON & COMPANY
AND (insert your company name) AND THE AMOUNT BEING DRAWN OF USD _____
DOES NOT EXCEED THAT AMOUNT WHICH J. ARON & COMPANY IS ENTITLED TO DRAW.

SPECIAL CONDITIONS:

1. PARTIAL AND MULTIPLE DRAWINGS ARE PERMITTED.
2. ALL CHARGES RELATED TO THIS LETTER OF CREDIT ARE FOR OPENER'S ACCOUNT.
3. DOCUMENTS MUST BE PRESENTED NOT LATER THAN (insert expiry date) OR IN
THE EVENT OF FORCE MAJEURE INTERRUPTING OUR BUSINESS, WITHIN THIRTY (30)
DAYS AFTER RESUMPTION OF OUR BUSINESS, WHICHEVER IS LATER.

UPON RECEIPT OF DOCUMENTS ISSUED IN COMPLIANCE WITH THE TERMS OF THIS
CREDIT, WE HEREBY IRREVOCABLY UNDERTAKE TO COVER YOU AS PER YOUR
INSTRUCTIONS WITH VALUE ONE BANK WORKING DAY.

THIS STANDBY CREDIT IS SUBJECT TO THE UNIFORM CUSTOMS AND PRACTICE FOR
DOCUMENTARY CREDITS 2007 REVISION), I.C.C. PUBLICATION 600.

THE J. ARON CORPORATION
UNANIMOUS WRITTEN CONSENT
OF THE BOARD OF DIRECTORS
IN LIEU OF A SPECIAL MEETING

January 26, 2007

WHEREAS, the undersigned, constituting the entire Board of Directors (the "Board of Directors") of THE J. ARON CORPORATION, a Delaware corporation (the "Corporation"), acting pursuant to the bylaws of the Corporation, hereby take the following actions by written consent without a meeting as if such resolutions had been adopted at a duly convened meeting of the Board of Directors; and

WHEREAS, the Board of Directors directs that this consent be filed with the minutes of the proceedings of the Board of Directors;

WHEREAS, the Corporation is the Corporate General Partner (as defined in the Partnership Agreement referenced below) of J. Aron & Company (the "Partnership");

WHEREAS, under Article II, Paragraph 2 of the Memorandum of Agreement (the "Partnership Agreement"), as amended and restated as of November 30, 1996, among the Corporation and J. Aron Holdings, L.P., the Partnership may carry on such business as may be determined by the Partnership's Corporate General Partner;

WHEREAS, the Corporate General Partner is authorized under Article VIII of the Partnership Agreement to take action and adopt procedures for and on behalf of the Partnership as specified in the Partnership Agreement;

NOW THEREFORE, BE IT:

RESOLVED, that the purposes for which the Partnership is formed and the business to be conducted by it shall include engaging generally in the financing business, as principal or as agent, the investment business, as principal, the business of trading of products and entering into transactions in or relating to interest rates, currencies, credit, commodities, property, weather, emission credits or any similar product or combination of products or indices thereon. The activities of the Partnership may include, without limitation:

- (a) carrying on the business of investing in any share, stock, bond, debenture, option, warrant, interest rate, commodity or currency swap, or other security or rights in or options issued or distributed to or acquired by the Partnership in connection therewith and any loan of money, any commodity or any currency or interest in any currency or commodity including any financial stock market index, interest rate, commodity or currency futures, swaps or similar financial or other instruments and any rights and/or options over any of the aforesaid issued by or under the guarantee of any Person or of any governmental body and whether

paying interest or dividends or not and whether fully paid, partly paid or nil paid and including any participation as a limited partner or participant in any partnership, joint venture or unincorporated association;

- (b) carrying on the business of investing in assignments and participations in bank debt, mezzanine debt, private equity placements, debt of other lenders, and any other debts, interests or securities of any kind whatsoever as the Corporate General Partner may deem appropriate;
- (c) lending and advancing money or giving credit on any terms and with or without security to any person, firm or company (including without prejudice to the generality of the foregoing any company associated in any way with the Partnership), entering into guarantees, contracts or indemnity and suretyships of all kinds and securing or guaranteeing in any manner and upon any terms the payment of any sum of money or the performance of any obligation by any Person (including without prejudice to the generality of the foregoing any company associated with the Partnership); and
- (d) entering into all such contracts and agreements, and doing all such other things, as may be necessary or desirable in connection with, or incidental to, any of the foregoing purposes or business of the Partnership, including, without limitation, acting as a syndication agent, administrative agent, documentation agent and arranger.

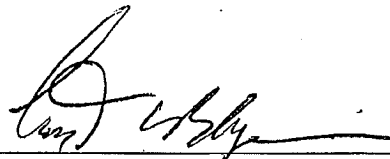
"Persons" shall mean any individual, partnership, company corporation, unincorporated organization or association, trust or other entity, association or relationship.

RESOLVED, that each of the actions taken by or on behalf of the Partnership for or in connection with one or more of the purposes for which the Partnership was formed as specified in the Partnership Agreement or by action of the Corporation as Corporate General Partner is hereby ratified and approved.

RESOLVED, that each Managing Director of the Partnership be authorized to enter into any instrument or agreement on behalf of the Partnership in furtherance of the purposes for which the Partnership was formed, including without limitation, powers of attorney appointing specified individuals associated with or employed by the Partnership authorizing such individuals to execute instruments or agreements on behalf of the Partnership in furtherance of the purposes for which the Partnership was formed and that each instrument or agreement executed by a Managing Director of the Partnership or any other individual associated with or employed by the Partnership that was authorized by a power of attorney signed by a Managing Director of the Partnership is hereby ratified and approved.

RESOLVED, that this Unanimous Written Consent shall supersede and replace the Written Consent of Director of The J. Aron Corporation dated September 16, 2003.

IN WITNESS WHEREOF, the undersigned, being all of the directors of the Corporation, have executed this Unanimous Written Consent as of the date first written above.



Lloyd C. Blankfein

LMB

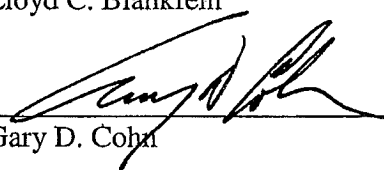
Gary D. Cohn

Jon Winkelried

John S. Weinberg

IN WITNESS WHEREOF, the undersigned, being all of the directors of the Corporation, have executed this Unanimous Written Consent as of the date first written above.

Lloyd C. Blankfein



Gary D. Cohen SAC

Jon Winkelried

John S. Weinberg

IN WITNESS WHEREOF, the undersigned, being all of the directors of the Corporation, have executed this Unanimous Written Consent as of the date first written above.

Lloyd C. Blankfein

Gary D. Cohn



Jon Winkelried JWB

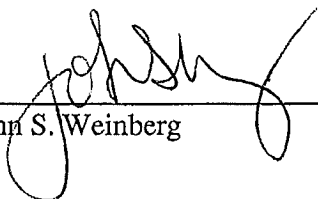
John S. Weinberg

IN WITNESS WHEREOF, the undersigned, being all of the directors of the Corporation, have executed this Unanimous Written Consent as of the date first written above.

Lloyd C. Blankfein

Gary D. Cohn

Jon Winkelried



John S. Weinberg

POWER OF ATTORNEY

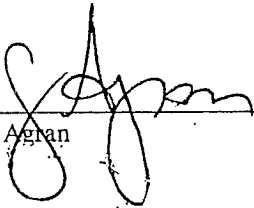
This Power of Attorney Expires on January 1, 2013.

KNOW ALL MEN BY THESE PRESENTS that J. ARON & COMPANY, a New York general partnership, whose principal place of business is at 200 West Street, New York, New York, 10282, does hereby make, constitute and appoint the following individuals, acting alone, as its true and lawful agents and attorneys-in-fact, with the power and authority specified below, to be exercised by said attorneys by signing their individual names only, to act for J. Aron & Company.

A party in receipt of this Power of Attorney may act upon the faith of an original or photostatic copy hereof until the stated expiration date of this Power of Attorney or until such time as notice in writing of the termination of this Power of Attorney or any authority granted hereunder shall be delivered to the recipient hereof.

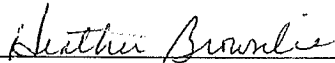
Set forth below are the names, titles, and the true signatures of persons authorized to execute and deliver any and all contracts, agreements, certificates or instruments of any nature.

Greg A. Agran



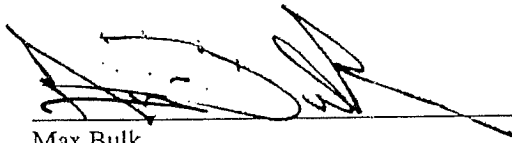
Greg Agran

Heather Brownlie



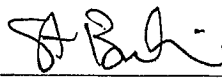
Heather Brownlie

Max Bulk



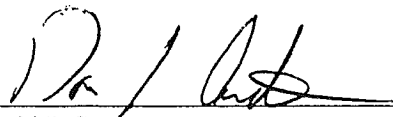
Max Bulk

Steven Bunkin



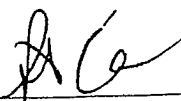
Steven Bunkin

Donald J. Casturo



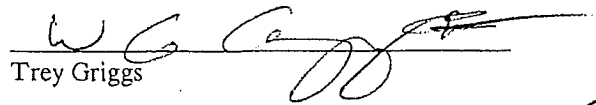
Donald J. Casturo

Steven Cho

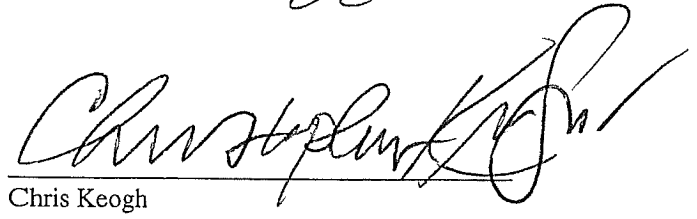


Steven Cho

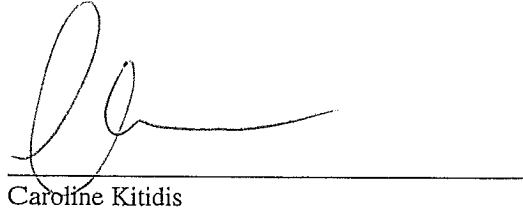
Trey Griggs


Trey Griggs

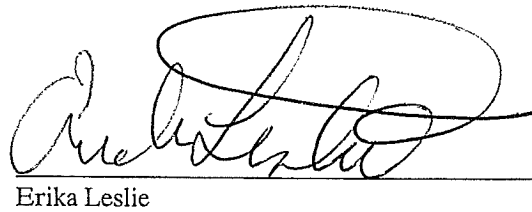
Chris Keogh


Chris Keogh

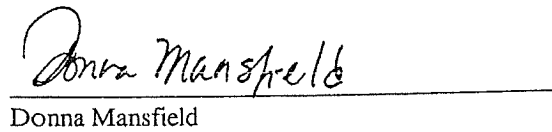
Caroline Kitidis


Caroline Kitidis

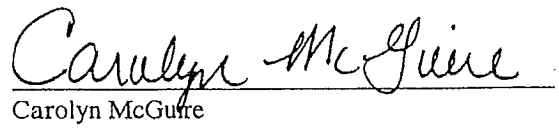
Erika Leslie


Erika Leslie

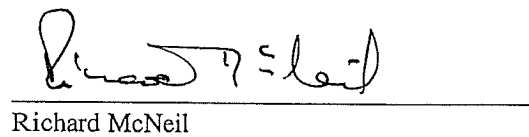
Donna Mansfield


Donna Mansfield

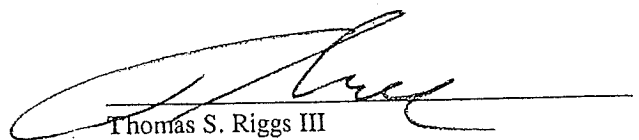
Carolyn McGuire


Carolyn McGuire

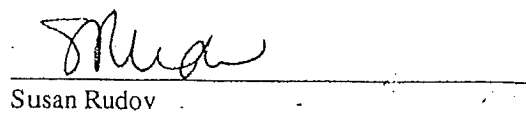
Richard McNeil


Richard McNeil

Thomas S. Riggs III


Thomas S. Riggs III

Susan Rudov

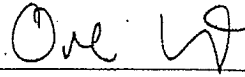

Susan Rudov

Pankaj Jhamb



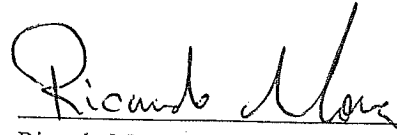
Pankaj Jhamb

Owen O. West



Owen West

Ricardo Mora



Ricardo Mora

Request for Taxpayer Identification Number and Certification

**Give Form to the
 requester. Do not
 send to the IRS.**

Print or type
 See Specific Instructions on page 2.

Name (as shown on your income tax return) J. Aron & Company	
Business name/disregarded entity name, if different from above	
Check appropriate box for federal tax classification: <input type="checkbox"/> Individual/sole proprietor <input checked="" type="checkbox"/> C Corporation <input type="checkbox"/> S Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Trust/estate <input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶ _____ <input type="checkbox"/> Exempt payee <input type="checkbox"/> Other (see instructions) ▶ _____	
Address (number, street, and apt. or suite no.) 200 West Street	Requester's name and address (optional)
City, state, and ZIP code New York, NY 10282	
List account number(s) here (optional)	

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on the "Name" line to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Social security number																												
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Note. If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

Employer identification number	

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
3. I am a U.S. citizen or other U.S. person (defined below).

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 4.

Sign Here	Signature of U.S. person ▶	Date ▶ MARCH 30 2012
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General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Purpose of Form

A person who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income.

Note. If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

Definition of a U.S. person. For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States,
- An estate (other than a foreign estate), or
- A domestic trust (as defined in Regulations section 301.7701-7).

Special rules for partnerships. Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax on any foreign partners' share of income from such business. Further, in certain cases where a Form W-9 has not been received, a partnership is required to presume that a partner is a foreign person, and pay the withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid withholding on your share of partnership income.



OFFICE OF THE CITY ATTORNEY
Long Beach, California

ROBERT E. SHANNON
City Attorney

HEATHER A. MAHOOD
Chief Assistant City Attorney

MICHAEL J. MAIS
Assistant City Attorney

PRINCIPAL DEPUTIES

Dominic Holzhaus
Anne C. Lattime
Monte H. Machit
J. Charles Parkin
DEPUTIES

C. Geoffrey Allred
Gary J. Anderson
Richard F. Anthony
Amy R. Burton
Kendra L. Carney
Christina L. Checel
Charles M. Gnie
Barbara J. McTigue
Brry M. Meyers
Cristyl Meyers
Howard D. Russell
Tiffany L. Shin
Linda Trang
Theodore B. Zinger

March 26, 2012

J. Aron & Company
200 West Street
New York, New York 10282-2198

Ladies and Gentlemen:

We are attorneys admitted to practice in the State of California and are generally familiar with the affairs of the City of Long Beach ("Counterparty"). We have examined and are familiar with (i) the documents relating to the creation, authorization, organization, existence, and operation of Counterparty, (ii) the Master Agreement dated as of March 26, 2012 between Counterparty and J. Aron & Company ("Addressee") (the "Swap Agreement"), (iii) the Confirmation to be executed between Counterparty and Addressee (the "Confirmation") (the Swap Agreement and Confirmation being collectively referred to as the "Agreement"), (iv) all necessary documentation of Counterparty relating to the authorization, execution, delivery, and performance of the Agreement, and (v) such other records and instruments as we deemed advisable.

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

1. Counterparty is duly organized, validly existing, and in good standing under the laws of California.

2. Counterparty has the power to execute this Agreement and any other documentation relating to this Agreement to which it is a party, to deliver this Agreement and any other documentation relating to this Agreement that it is required by this Agreement to deliver and to perform its obligations under this Agreement and any obligations it has under any Credit Support Document to which it is a party and has taken all necessary action and has made all necessary determinations and findings to authorize such execution, delivery and performance, the individual(s) executing and delivering this Agreement and any other documentation (including any Credit Support Document) relating to this Agreement to which it is a party or that it is required to deliver are duly empowered and authorized to do so, and it has duly executed and delivered this Agreement and any Credit Support Document to which it is a party.

3. Such execution, delivery and performance do not violate, conflict with, or constitute a breach of or default under, any law applicable to Counterparty, any provision of its constitutional documents, any order or judgment of any court or other agency of government applicable to it or any of its assets or any contractual restriction binding on or

affecting it or any of its assets. Counterparty is not in violation or breach of or default under any law applicable to Counterparty, any provision of its constitutional documents, any order or judgment of any court or other agency of government applicable to it or any of its assets or any contractual restriction binding on or affecting it or any of its assets which could adversely affect the Agreement or any other documentation (including any Credit Support Document) relating to this Agreement to which it is a party or that it is required to deliver, the legality, validity, binding effect, or enforceability thereof, the ability of Counterparty to perform its obligations thereunder, or the financial condition or operations of Counterparty.

4. All governmental and other consents that are required to have been obtained by Counterparty with respect to this Agreement or any Credit Support Document to which Counterparty is a party have been obtained and are in full force and effect and all conditions of any such consents have been complied with.

5. The Agreement and any Credit Support Document to which Counterparty is a party have duly authorized, executed, and delivered by Counterparty, and the obligations of Counterparty under this Agreement and any such Credit Support Document constitute its legal, valid and binding obligations, enforceable in accordance with their respective terms (subject to applicable bankruptcy, reorganization, insolvency, moratorium or similar laws affecting creditors' rights generally and subject, as to enforceability, to equitable principles of general application (regardless of whether enforcement is sought in a proceeding in equity or at law)).

6. There is not pending or, to the knowledge of such counsel, threatened against Counterparty or against any Credit Support Provider of Counterparty or any entity designated as a Specified Entity of Counterparty for purposes of Section 5(a)(vii) of the Agreement (nor to the knowledge of such counsel is there any basis for), any action, suit or proceeding at law or in equity or before any court, tribunal, governmental body, agency or official or any arbitrator that is likely to affect the legality, validity or enforceability against it of this Agreement or any Credit Support Document to which it is a party or its ability to perform its obligations under this Agreement or such Credit Support Document.

7. The Counterparty shall be legally bound by the terms of each Transaction entered into under the Swap Agreement from the moment the parties agree to those terms (whether orally or otherwise).

Very truly yours,

ROBERT E. SHANNON, City Attorney

By:


RICHARD F. ANTHONY
Deputy City Attorney