

CONTRACT FOR THE STORAGE AND DELIVERY OF HELIUM

BETWEEN

THE UNITED STATES OF AMERICA DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT  
AND

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**(This Contract will be Assigned by Government to Purchaser  
under Agreements, Terms and Conditions Hereinafter Provided.)**

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CONTRACT NO. 2022-\_\_\_\_\_

CONTRACT FOR THE STORAGE AND DELIVERY OF HELIUM

Between

\_\_\_\_\_

and the  
UNITED STATES OF AMERICA

This Contract is made between \_\_\_\_\_ (hereinafter called Person, as defined in the Helium Stewardship Act, 50 U.S.C. §167), a corporation organized and existing under the laws of the State of \_\_\_\_\_, with its principal offices at \_\_\_\_\_, and the United States of America (hereinafter called “United States” or “Government”), acting through the Bureau of Land Management (BLM) of the Department of the Interior. The executing parties to this Contract are hereinafter jointly referred to as the “Parties”.

The Parties jointly understand, acknowledge, and agree that this Contract will be assigned by the Government to the Purchaser of the Federal Helium System upon Federal conveyance of the Federal Helium System to private ownership under the terms and conditions hereinafter provided as required under the provisions of the Helium Stewardship Act, 50 U.S.C. §167d(d), as amended.

In consideration of the mutual promises and covenants contained herein, the United States and Person agree as follows:

ARTICLE I

Definitions

1.1 “Acceptance/Delivery Point” - The term means any pipeline tap or connection to the Federal Helium Pipeline owned by Person prior to the Government Assignment and Conveyance of the Federal Helium System to the Purchaser and any pipeline tap or connection to the Helium Pipeline owned by Person after the Conveyance.

1.2 Allocable gas - The term means the volume of helium used in making allocation calculations and includes all Primary Private helium.

1.3 “Allocation” - The term means that prior to the Government Assignment and Conveyance of the Federal Helium System to the Purchaser, in the event of a shortage, or any time the delivery of helium must be divided among storage Contract holders, the Authorized Officer will allocate the remaining delivery capacity of the Federal Helium System, after the needs of Federal users have been met, among all parties storing helium in the Federal Helium System. Allocation

during government ownership of the Federal Helium system will be calculated as a percentage of the remaining delivery capacity of the Federal Helium System according to the proportion of each storage Contract holder's stored volume of Primary Private Helium to the total volume of Primary Private Helium stored by all storage Contract holders. Allocation will be calculated as of 8 a.m. Central Time on October 1, 2021 and annually each year after on October 1. The Authorized Officer may, in his sole discretion, change the allocation method when technical or operational considerations make such changes necessary or appropriate, but the Authorized Officer will notify all storage Contract holders before making any such change.

The term "Allocation" also applies after the Government Assignment and Conveyance to the Purchaser in the event of a shortage. Allocation will be calculated as a percentage of the remaining delivery capacity of the Helium System according to the proportion of each storage Contract holder's stored volume of Primary Private Helium to the total volume of Primary Private Helium stored by all storage Contract holders. Allocation will be calculated as of 8 a.m. Central Time each year annually on October 1. The Purchaser's Representative may, in his sole discretion, change the allocation method when technical or operational considerations make such changes necessary or appropriate, but the Purchaser's Representative will notify all storage Contract holders before making any such change. If changing the allocation method, Purchaser cannot change the definition of Primary Private Helium or the restriction that the allocation must be based only on volumes of Primary Private Helium. Further, priority access is limited to 20 percent of the total crude production per day of Purchaser's New Helium. See 1.3 Allocable Gas, 1.24 Purchaser's New Helium, 2.3 Delivery of Helium by United States or Purchaser, and 2.7 Shortages After Conveyance- for more information. If the Conveyance occurs in the middle of a fiscal year, the Allocation calculation from October 1 of that year remains in effect until the next October 1.

1.4 "Authorized Officer" - The term means the person authorized to act on behalf of the BLM in approving, revising, managing, and terminating this Contract prior to the Conveyance of the Federal Helium System to Purchaser.

1.5 "Contained helium" - The term means the amount of helium in a "Helium-gas mixture."

1.6 "Contract Year" - The term means a period of time beginning at 8 a.m. Central Time on October 1 and ending at 8 a.m. Central Time on October 1 of the following year. Allocations will be calculated using the storage volumes as of 8 a.m. Central Time each October 1, the first day of the Contract Year.

1.7 "Conveyance" - The term means the Government conveyance of all, right, title, interest, and obligations in and to the Federal Helium System to the Purchaser as required under the provisions of the Helium Stewardship Act, 50 U.S.C. §167d(d), as amended.

1.8 "Day" - The term means a period of twenty-four (24) consecutive hours beginning at 8 a.m. and ending at 8:00 a.m. Central Time the succeeding day.

1.9 "Existing Agreement" - The term means any written agreement between the United States and Person for any helium storage, delivery, or transportation services in or related to the Federal

Helium System that is in effect as of the date that both Person and the United States have executed this Contract.

1.10 “Federal Helium Pipeline” - The term means the Federally owned pipeline system through which helium may be transported. The Federal Helium Pipeline extends from the vicinity of Bushton, Kansas, to the Cliffside Field, with lateral extensions to various helium extraction plants connected to said pipeline used or designed for the purpose of gathering and transporting the helium-gas mixture to and from the Bush Dome, Cliffside Field, near Amarillo, Texas.

1.11 “Federal Helium System” - The term means (A) the Federal Helium Reserve; (B) the Cliffside Field; (C) the Federal Helium Pipeline; and (D) all other infrastructure owned, leased, or managed under Contract by the Secretary for the storage, transportation, withdrawal, enrichment, purification, or management of helium.

1.12 “Federal User” - The term means a Federal Agency or extramural holder of one or more Federal research grants using helium. No helium will be provided to Federal Users from the Federal Reserve through the In-Kind Program after September 30, 2022.

1.13 “Force Majeure” - The term means acts of God, acts of public enemy, wars, blockades, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, storms, floods, washouts, civil disturbances, explosions, breakage or accident to machinery or equipment, perforation or breakage of lines of pipe (whether caused by nature or act of a third party), freezing of wells or lines of pipe, partial or entire failure of gas wells or pressure protection devices, inability to obtain materials, supplies, or permits, and any laws, orders, rules, regulations, acts, or restraints of any government or governmental body of authority whether civil or military and any other cause, whether of the kind herein enumerated or otherwise, in each case, whether enumerated herein or otherwise, that is not within the control of the party claiming suspension and which by the exercise of due diligence such party is unable to avoid.

1.14 “Government Assignment” - The term means the action by the Government called for under Article II below to assign to Purchaser this Contract as part of the Conveyance to Purchaser of the Federal Helium System.

1.15 “Helium-gas mixture” - The term means the gaseous product contained in the Federal Helium System which is comprised predominantly of helium together with other chemical constituents of natural gas.

1.16 “Helium Pipeline” – The term means the pipeline system owned by the Purchaser after the Government Assignment and Conveyance through which helium may be transported. The Helium Pipeline will extend from the vicinity of Bushton, Kansas, to the Cliffside Field, with lateral extensions to various helium extraction plants connected to said pipeline used or designed for the purpose of gathering and transporting the helium-gas mixture to and from the Bush Dome, Cliffside Field, near Amarillo, Texas.

1.17 “Helium Reserve” – The term means the Federal Helium Reserve after Government sells, assigns, and conveys all title and rights to the Federal Helium System to the Purchaser.

1.18 “Helium System” - The term means (A) the Helium Reserve; (B) the Cliffside Field; (C) the Helium Pipeline; and (D) all other infrastructure owned by Purchaser after Government Assignment and Conveyance to Purchaser and managed under this Contract by Purchaser’s Representative for the storage, transportation, withdrawal, enrichment, purification, or management of helium.

1.19 “Mcf” - The term means one thousand (1,000) standard cubic feet.

1.20 “Metering facility” - The term means the meter run, gas chromatograph, electronic flow computer and associated equipment at the Acceptance/ Delivery point on the Federal Helium Pipeline or Helium Pipeline.

1.21 “Month” - The term means a period of time beginning at 8:00 a.m. Central Time on the first day of a calendar month and ending at 8:00 a.m. Central Time on the first day of the succeeding calendar month.

1.22 “Primary Private Helium” - The term means the total of all privately owned helium stored by Person in the Federal Reserve prior to October 1, 2022. Primary Private helium will be managed by the storage Contract terms and will be delivered before and after the Conveyance according to the Contract terms, which will continue through FY 2027. Person may enter a new contract with Purchaser in order to arrange for delivery of Primary Private helium after the expiration of the six-year Contract if Primary Private Helium has not been delivered during six-year Contract term. Person retains ownership of its Primary Private Helium even if a new contract is not entered with Purchaser and Person holds title to its Primary Private Helium until Person has received delivery.

1.23 “Purchaser” – The term means the Party, its successors, and assigns, that is the Government’s successor in title for the Federal Helium System. The term also means the Government Assignee of this Contract effective as of the date of Conveyance of the Federal Helium System.

1.24 “Purchaser’s New Helium” - The Term means all helium Purchaser gains through the Purchase of the Federal Helium System. Purchaser’s New Helium is not Primary Private Helium or Allocable Gas. Purchaser’s New Helium is not included in the allocation calculation. In times of shortage, Purchaser has the right to withdraw 20 percent of the total crude helium production per day of Purchaser’s New Helium prior to allocating withdrawals of crude helium production to the Storage Contract Holders. Purchaser may transfer this 20 percent of the total crude helium production per day right to other Storage Contract Holders. For any day the Helium System is shut down, Purchaser does not receive priority for 20 percent of the total crude helium production for that day and Purchaser’s New Helium priority does not apply and does not carry over.

1.25 “Purchaser’s Representative” - The term means the person authorized to act on behalf of the Purchaser, its successors or assigns, in approving, revising, managing, and terminating this Contract as the Assignee of this Contract after the Government Assignment and Conveyance of the Federal Helium System to the Purchaser as required under the provisions of the Helium Stewardship Act, 50 U.S.C. §167d(d), as amended.

1.26 “Required rate of withdrawal” - The term means a withdrawal rate assigned to Person by the Authorized Officer prior to Conveyance or by Purchaser’s Representative after the Government Assignment and Conveyance of the Federal Helium System. This rate is equivalent to the allocated rate calculated as described in 1.3.

1.27 “Secondary Private Helium” - The term means any helium added via pipeline to the Federal Helium System after September 30, 2022 and not intended for transfer (see definition of Transfer Helium). After September 30, 2022, any Transfer Helium added by Person that is not transferred within three months will be reclassified as Secondary Private Helium for Person. Secondary Private helium will be excluded from these storage Contract terms and Person must negotiate a separate storage and delivery contract with Purchaser. Any Secondary Private Helium added between September 30, 2022 and the Conveyance will be safeguarded and tracked, totaled, and documented by Government until Conveyance. Government will provide Person with Person’s balance of Secondary Private Helium on a monthly basis prior to the Conveyance. Government will provide Person and Purchaser with Person’s balance of Secondary Private Helium at the time of Conveyance. After the Conveyance, Person should immediately enter a contract for storage and delivery of Secondary Private Helium with Purchaser. Person may only withdraw Secondary Private Helium under the terms of this Contract prior to the Conveyance if the Federal Helium System is not under allocations, Person has withdrawn all of their Primary Private Helium, and has Secondary Private Helium that they wish to withdraw.

1.28 “Standard cubic foot” - The term means the volume of helium-gas mixture or contained helium, as applicable, which occupies the space in one cubic foot when at a temperature of 60 degrees Fahrenheit and at an absolute pressure of 14.65 pounds per square inch.

1.29 “Transfer Helium” - The term means helium that is added to the Federal Helium System or Helium System after September 30, 2022, with the intention of being transferred within three months. Transfer Helium is not considered Primary Private Helium. The intention for transfer must be sufficiently documented to satisfy the BLM or Purchaser that the helium will be withdrawn. After September 30, 2022, if the transfer of Transfer Helium is not completed within three months, it will be reclassified as Secondary Private Helium for the Person adding it. If the Person receiving the helium does not remove it within the month when it is assigned, it will also become reclassified as Secondary Private Helium.

## ARTICLE II

### Acceptance and Delivery of Helium-Gas Mixtures

Pursuant to 50 U.S.C. 167d(d), as amended, the BLM will report the Federal Helium System as excess real property for disposal to the General Services Administration (GSA) on or before September, 30, 2021 to be disposed of in accordance the provisions of Title 40 of the United States Code. The Government Assignment and Conveyance to Purchaser of the Federal Helium System, is projected to occur prior to September 30, 2023. At the time of the Conveyance, the United States will assign these storage Contracts to the Purchaser.

#### 2.1 Acceptance and Storage by the United States and Purchaser.

The Government (prior to the Conveyance) and Purchaser (after the Conveyance) will accept all Primary Private Helium rights held by Person subject to the terms and conditions of this Contract.

Prior to September 30, 2022, the Government agrees to accept and store the Primary Private Helium that Person delivers into the Federal Helium Pipeline at a Person's Metering Facility and/or Acceptance/ Delivery Point subject to the conditions listed in 2.1(a).

After September 30, 2022 and prior to the Conveyance, the Government agrees to accept and store the Secondary Private Helium that Person delivers into the Federal Helium Pipeline at a Person's Metering Facility and/or Acceptance/ Delivery Point subject to the conditions listed in 2.1(a). See 4.1(h) for fees for Secondary Private Helium prior to the Conveyance.

After the Conveyance, Purchaser agrees to accept Secondary Private Helium under a separate contract and subject to the conditions listed in 2.1 (a).

Absent a separate new contract with Purchaser for Secondary private helium, Purchaser has no contractual obligation to deliver Person's Secondary Private Helium. However, Purchaser must store Person's Secondary Private Helium and Person must continue to pay the fees for Secondary Private Helium as defined in 4.1(h) to Purchaser until a new contract can be negotiated.

(a) In order for Person to add helium to the Federal Helium System or Helium System, Person's helium-gas mixture must contain:

- 1) at least 65 percent helium by volume, except as allowed in paragraph 4.1.d
- 2) no more than 80 percent helium by volume,
- 3) no more than 20 parts per million of neon,
- 4) no more than 200 parts per million of carbon dioxide,
- 5) no more than 3 percent methane (CH<sub>4</sub>) by volume,
- 6) no more than 96 parts per million of heavy hydrocarbons (C<sub>3</sub>+),
- 7) no more than 2.3 percent hydrogen by volume,
- 8) no more than 0.3 percent oxygen by volume, and
- 9) no more than 7 pounds of water (H<sub>2</sub>O) per million cubic feet of gas.

(b) The temperature of Person's helium-gas mixture will not exceed 110 degrees Fahrenheit.

(c) Person's helium-gas mixture is delivered at a pressure high enough to enable it to flow directly into the Federal Helium Pipeline or Helium Pipeline against whatever pressure exists in the pipeline at the time and point of acceptance of Person's helium-gas mixture for storage, but not more than 1500 pounds per square inch gauge (psig). The Purchaser may revise the maximum helium pipeline pressure in the Helium Pipeline, if necessary.

(d) The helium-gas mixture that Person provides for delivery does not contain any component that the United States or Purchaser determined is detrimental to the Federal Helium System or the Helium System. If Authorized Officer or Purchaser's Representative notifies Person that Person's helium-gas mixture contains any detrimental components, Person must correct the mixture before United States or Purchaser will accept any additional helium-gas mixture from Person.

(e) Acceptance of Person's helium-gas mixture is subject to the physical limitations of the Federal Helium System, or the Helium System and prudent procedures as determined by the Authorized Officer or Purchaser's Representative. Person may not tender its helium-gas mixture at a pressure in excess of 1,500 psig. The United States or Purchaser will accept Person's helium-gas then existing mixture for storage or transfer at the point where the Federal Helium Pipeline/Helium Pipeline is connected with Person's measurement facilities outlet.

(f) If Person wishes to deliver helium to the Federal Helium System or Helium System and Person's helium-gas mixture is greater than 80 percent helium by volume, Person may deliver the helium after Person adds nitrogen to reduce the helium concentration to 80 percent.

(g) In order to store Secondary Private helium in the Federal Helium System or the Helium System, Person must be able to accept transfers of helium and be current on all amounts due and payable under this Contract.

(h) Adding additional helium mixture to the pipeline for storage does not increase a storage Contract holder's annual allocation proportion (or the monthly allocation proportion) for the remainder of the current fiscal year. Allocation is calculated based only on the proportion of each storage Contract holder's stored volume of Primary Private Helium to the total volume of Primary Private Helium stored by all storage Contract holders as of 8 a.m. Central Time on October 1 of each year. After September 30, 2022, any Secondary helium added for storage is not included in the Allocation calculation under this Contract.

(i) If Person wishes to deliver Secondary Helium to the Federal Helium System after October 1, 2022 and prior to the Conveyance, the United States will safeguard this Secondary Helium until Person can negotiate a new storage contract with the Purchaser and in order to secure delivery of this secondary private helium after the Conveyance.

(j) If Person wishes to deliver Secondary Helium to the Helium System after the Conveyance, Person must enter a separate contract with Purchaser.



## 2.2 Transfer Helium

Transfer Helium is not considered Secondary Private Helium if Person adding helium completes the transfer (from addition to accounting) within three months. If the transfer is not completed within three months, Transfer Helium reverts to Secondary Private Helium for person who added the helium. The removal of Transfer Gas does not subtract from the amount of helium that a storage contract holder can take under allocation during times of helium shortage. However, Person may not remove any helium including Transfer Helium if the pipeline pressure is below 600 psi. Person receiving Transfer Helium must remove the received Transfer Helium within the month when Person's account is credited, or the Transfer Helium will revert to Secondary Private Helium for person receiving the transfer. Person receiving the transfer must ensure that their balance does not go negative at any time due to Person's removal of its Transfer Helium. Person should wait at least 72 hours after addition for removal if their balance cannot cover the removal (to prevent negative daily averages).

(a) Transportation fees will apply for acceptance and delivery of Transfer Helium per 4.1(c).

(b) Annually on October 1, beginning on October 1, 2022, Person will provide Authorized Officer or Purchaser's Representative, as applicable, with an estimate of the volumes of Transfer Helium that Person anticipates it will add to the Federal Helium Pipeline or Helium Pipeline as applicable during the Contract Year as well as documentation of length of time the transfer will take from company to company (must be less than three months).

(c) United States or Purchaser as applicable can waive Secondary Helium reclassification of Transfer Helium if circumstances outside United States' or Purchaser's control warrant it.

2.3 Delivery of Private Helium by Person to Federal Helium System or Helium System. Prior to September 30, 2022, Person will provide to Authorized Officer, as described in 2.2(a), estimates of delivery volumes of Primary Private Helium that Person plans to deliver to the Federal Helium System. After September 30, 2022 and Pre-Conveyance, Person will provide to Authorized Officer, as described in 2.2(a), estimates of delivery volumes of Secondary Private Helium that Person plans to deliver to the Federal Helium Pipeline. After Conveyance, Person will provide to Purchaser's Representative, as described in 2.2(a), estimates of delivery volumes of Secondary Private Helium that Person plans to deliver the Helium Pipeline.

(a) Annually beginning October 1, 2021, and when this Contract is transferred to Purchaser, Person will provide the Authorized Officer or Purchaser's Representative, as applicable, an estimate of the volumes of Primary or Secondary Private helium-gas mixture, as applicable, that Person anticipates it will deliver or arrange to be delivered to the Federal Helium Pipeline or Helium Pipeline, as applicable, during the Contract Year (or the remainder of the Contract year if the Conveyance occurs in the middle of the Contract year).

(b) On or before the twentieth day of each calendar month, Person will notify the Authorized Officer or Purchaser's Representative, as applicable, of any changes to the estimated

volume of Primary or Secondary Private helium-gas mixture, as applicable, that Person expects to deliver or arrange to be delivered for storage during the succeeding calendar month.

(c) If Person fails to provide the information required under paragraph (a) or paragraph (b) of this section at the time required, Person agrees to pay \$2,000 in liquidated damages to compensate the United States for its administrative costs.

(d) After Government Assignment and Conveyance to Purchaser of the Federal Helium System, if Person fails to provide the information required under paragraph (a) or paragraph (b) of this section at the time required, Person agrees to pay \$2,000 in liquidated damages to compensate Purchaser for its administrative costs.

(e) All other terms and conditions of the section remain in full force and effect as to Purchaser and Person.

#### 2.4 Delivery of Helium by the United States or Purchaser

The United States and Purchaser, as applicable, agree to deliver to Person during the term of this Contract as much of the volume of Primary Private Helium owned by the Person and stored by the United States in the Federal Helium System or stored by Purchaser in the Helium System, as applicable, that Person requests. Delivery is subject to any allocations in place, all terms and conditions of this Contract, the limitations of the Federal Helium System or the Helium System to deliver, the rights of Purchaser to receive Purchaser's New Helium, and the rights of the other storage Contract holders within the Federal Helium System or the Helium System, as applicable.

(a) Allocations are calculated on October 1 each year based on amount of Primary Private Helium in the Federal Helium System or Helium System as applicable. The last allocation calculated prior to the Conveyance will remain in effect until it is recalculated the subsequent October 1 after the Conveyance.

(b) Purchaser's New Helium and all Storage Contract Holders' Secondary helium is not included in allocation calculations. Purchaser is guaranteed delivery of 20 percent of the total crude production per day of Purchaser's New Helium. The Purchaser's Representative will allocate the remaining delivery capacity of the Helium System among all parties storing helium in the Helium System.

(c) Upon Conveyance, the Parties understand, acknowledge, and agree that the United States has no obligation to facilitate or ensure delivery by the Purchaser of Person's Primary and Secondary Private Helium. Purchaser will be bound to the delivery terms and fees described in this Contract for Primary Private Helium during the term of this Contract. Person must enter a separate contract with Purchaser for delivery of its Secondary Private Helium

(d) Primary Private Helium will be delivered to Person at Person's Delivery/ Acceptance Point where the Federal Helium Pipeline or Helium Pipeline is connected with a line that goes to Person's facilities, and in a helium-gas mixture containing not less than 50 percent helium by volume, and at the pressure existing in the system at the time and at the point of delivery, and

will be delivered under conditions that permit suitable measurement and analysis specified by Article VI.

(e) Pursuant to Article IV, Person agrees to compensate the United States or Purchaser, as applicable, for any costs that the United States or Purchaser incurs to deliver a helium-gas mixture containing not less than 50 percent helium by volume.

#### 2.5 Title to Helium.

The Parties agree that title to the other constituents of natural gas other than helium of any helium-gas mixture accepted from Person for storage will pass to United States or Purchaser at the point of acceptance. The Parties further agree that upon delivery to Person of Primary Private Helium (and any Secondary Private Helium delivered prior to the Conveyance) stored under this Contract, title to all constituents of the helium-gas mixture delivered to Person will pass to Person at the point of delivery.

#### 2.6 Person's Estimates of Requests for Delivery.

Person will provide estimates to the Authorized Officer or Purchaser's Representative, as applicable, of all volumes Person plans to request from the Federal Helium System or Helium System as follows:

(a) Person agrees that, it will advise the Authorized Officer or Purchaser's Representative, as applicable, annually on October 1 each year of the volume of stored Primary Private Helium of which it expects to request delivery during the Contract Year beginning on October 1 of that year, so that the United States or Purchaser may estimate the total volume of helium which the United States or Purchaser, as applicable, may need to deliver from the Federal Helium System or Helium System during each Contract Year.

(b) On or before the twentieth day of each calendar month, Person will notify the Authorized Officer or Purchaser's Representative, as applicable, of any changes to the estimated volume of stored Primary Private Helium of which Person expects to request delivery during the succeeding calendar month.

(c) If Person fails to provide the information required under paragraph (a) or paragraph (b) of this section at the time required, Person agrees to pay \$2,000 in liquidated damages to compensate the United States or Purchaser's Representative, as applicable, for its administrative costs.

#### 2.7 Shortages prior to the Conveyance

The following provision shall only apply to the United States prior to the Conveyance. If at any time in the sole opinion of the Authorized Officer the delivery capacity of the Federal Helium System is inadequate to meet the total expected delivery requirements (referred to in this section as a "shortage"), and notwithstanding any other provision of this Contract, the available delivery capacity of the Federal Helium System will be used first to supply the helium needs of Federal users and second to meet other requests for the delivery of Primary Private Helium. The Authorized Officer will allocate the remaining delivery capacity of the Federal Helium System

after the needs of Federal users have been met among all parties storing Primary Private Helium in the Federal Helium System. That allocation will be calculated as described in 1.3.

#### 2.8 Shortages after the Conveyance

The following provision shall only apply to the Purchaser after the Government Assignment and Conveyance. The Purchaser has the right to remove 20 percent of the total crude production per day of Purchaser's New Helium, each day that the plant is in production. If at any time in the sole opinion of Purchaser's Representative the delivery capacity of the Helium System is inadequate to meet the total expected delivery requirements of the Storage Contract holders with the remaining crude helium production (referred to in this section as a "shortage"), and notwithstanding any other provision of this Contract, Purchaser's Representative will allocate the remaining delivery capacity of the Helium System. That allocation will be calculated as described in 1.3.

#### 2.9 Notification of times when Person's plant is unable to accept deliveries

Person agrees to notify the United States or Purchaser's Representative, as applicable, of all scheduled plant turnarounds and/or major unscheduled plant problems that affect the operations of the Federal Helium System or the Helium System or any other operational events that may affect deliveries of helium from, or acceptance of helium-gas mixture into, the Federal Helium System or the Helium System as soon as practicable after learning of such problems or events. The United States or Purchaser's Representative, as applicable agrees to keep this information confidential to the extent permitted by law.

### ARTICLE III

#### Effective Date, Term, and Existing Agreements

3.1 This Contract will be effective on October 1, 2021, at 12:00 a.m. Central Time and will continue thereafter for six years, expiring on September 30, 2027 at 11:59 p.m. Central Time.

(a) This Contract is not renewable.

(b) If Person does not elect to sign this Contract by September 23, 2021, the FY 2021 contract terminates by expiration and Paragraph 3.2 of the FY 2021 Contract is triggered. Person is required to withdraw all of Person's Helium at the required rate of withdrawal (see 1.18 of FY 2021 Storage Contract), as assigned by the Authorized Officer or Person must transfer Person's Primary Private Helium to another storage Contract holder with a FY 2022-FY 2027 Storage Contract.

3.2 When the FY 2022-2027 Contract terminates by expiration on September 30, 2027, Person retains title to Person's Primary Private Helium. If Person has Primary Private Helium stored in the Helium System and does not enter a new Contract with Purchaser, Person may transfer Person's helium to another party who has entered a new Contract with the Purchaser. Upon termination of the FY 2022-2027 Contract by expiration, if Person does not enter a new contract with Purchaser, Person must continue to pay the Purchaser fees related to Person's Primary Private Helium remaining in the Helium System in accordance with Article IV until all

of Person's Primary Private Helium is withdrawn. Monthly fees will be waived for any month where Person has claimed Force Majeure.

3.3 This Contract supersedes and replaces all Existing Agreements between the United States and Person for storage, delivery, or transportation services on the Federal Helium System. All Existing Agreements are terminated as of the effective date of this Contract, and all Primary Private Helium stored under Existing Agreements is subject to the terms and conditions of this Contract. Person will pay amounts due to the United States for accrued Primary Private Helium storage charges under any Existing Agreements within 30 days of the effective date of this Contract or in accordance with the payment schedule agreed upon between the United States and the Person.

#### ARTICLE IV

##### Fees

4.1 Person will pay the United States prior to the Conveyance, and to Purchaser after the Conveyance, for the acceptance, delivery, storage, transportation, and other services provided under this Contract, the following fees. Fees are subject to adjustments as hereinafter provided:

(a) Contract Administration Fee. For FY 2022-FY2027, whether used or not, on October 1, each year, Person will pay to the United States or Purchaser as applicable eighteen thousand dollars (\$18,000) due on the first day of each Contract Year.

(b) Acceptance/Delivery Point Assessment Fee. For each Acceptance/Delivery Point that Person has to move helium-gas mixtures to or from the helium storage pipeline, Person will pay twenty thousand (\$20,000) dollars per year due on the first day of the Contract Year to the United States or Purchaser as applicable Person has \_\_\_\_\_ Acceptance/Delivery Points located at \_\_\_\_\_.

(c) Transportation and Storage Fees. The transportation and storage fees will be calculated at the beginning of the Fiscal Year according to the following formula:

$$TR (\$/Mcf) = \frac{B}{(sf \times S) + A + D}$$
$$ST (\$/Mcf) = sf \times TR$$

Where:

**B** is the annual budget amount (operating cost, overhead costs, new infrastructure costs including costs to make a helium extraction unit operable and spread over the lifetime of the infrastructure), and maintenance costs for the Federal Helium System or the Helium System, as applicable, and its supporting services for each succeeding fiscal year. The annual budget will be adjusted by any over or under collections from the previous Fiscal Year.

**TR** is the Transportation Fee in \$ per Mcf to be charged for Primary Private helium delivered to Person or helium accepted from Person during the month. Invoicing and payment procedures are described in Article V below.

**S** is the total volume, in Mcf, of Primary Private Helium in storage prior to the Conveyance in the Federal Helium System or the volume of Primary Helium in storage in the Helium System, after the Conveyance owned by all private owners at the beginning of the Fiscal Year.

**A** is the total volume, in Mcf, of Primary helium prior to the Conveyance that all storage Contract holders delivered for acceptance into the Federal Helium Pipeline. If the above volume varies significantly from the total of all Contract holders' estimate in Article 2.2a, the United States or Purchaser's Representative, as applicable, may choose to use the estimate, in whole or in part.

**D** is the total volume, in Mcf, of Primary Private Helium that all storage Contract holders delivered prior to the Conveyance through the Federal Helium Pipeline during the previous Fiscal Year. However, D will not exceed the estimated productive capacity of the Federal Helium System or the Helium System, as applicable. If the above volume varies significantly from the total of all Contract holders' estimate in Article 2.5a, the United States or Purchaser's Representative, as applicable, may choose to use the estimate, in whole or in part.

**ST** is Storage Fee in \$ per Mcf to be charged prior to the Conveyance for its Primary Private Helium in storage at the beginning of the Fiscal Year. Person will pay its portion in ten equal installments with the first installment due by December 15th each Fiscal Year and the final installment due on September 15th of the Fiscal Year.

**sf** is the Primary and Secondary Private Helium storage factor. The sf is initially set at 1.0 on October 1, 2015. The sf will increase whenever the total privately-owned storage volume for Person at the beginning of the Fiscal Year is more than the Person's total storage of Primary and Secondary Private Helium at the beginning of the previous Fiscal Year. The sf will increase by the same percentage as the total storage volume increased over the previous Fiscal Year, rounded to the nearest tenth. The sf will decrease whenever the total privately-owned storage volume for Person at the beginning of the Fiscal Year is less than the total storage for Person at the beginning of the previous Fiscal Year. The sf will decrease by the same percentage as the total storage volume decreased over the previous Fiscal Year, rounded to the nearest tenth. Therefore, the minimum increase is ten percent. The value for sf will never be less than 1.0.

(d) **Low Purity Fee.** For all crude helium plants, the United States and Purchaser, as applicable, agree to accept crude helium that is below 65 percent helium by volume, but will not credit to Person's storage account crude helium that is less than 50 percent helium by volume. If Person delivers Secondary Private Helium that is crude helium that is greater than 50 percent but less than 65 percent helium by volume, Person agrees to pay a low purity fee of \$2.50 per Mcf per year.

(e) Transfer Fee. Prior to the Conveyance, for each transfer of ownership of Primary or Secondary Private Helium (Primary Private Helium must all be delivered first) stored by Person to another storage Contract holder, Person will pay to the United States, \$200. After the Conveyance, for each transfer of ownership of Primary Private Helium stored by Person to another storage Contract holder, Person will pay to the Purchaser, \$200.

(f) Low Sample Pressure Fee. Person will conduct sample collection as required under Article VI, paragraph 6.11. Person will pay an administrative fee of \$500 for each sample cylinder selected for laboratory analysis that does not have sufficient pressure at the time it is retrieved to allow a laboratory analysis for the previous month's composite accumulated sample. No fee will be assessed for days of plant inactivity.

Sufficient composite sample gas cylinder pressures are:

115 psi for 1-liter containers

450 psi for 250cc containers

900 psi for 125cc containers

(g) There will be no refund of any fees if Person terminates the Contract before the end of the Contract Year. (See paragraph 10.3).

(h) Secondary Private Helium will be charged the same rate (ST) as Primary Private Helium prior to the Conveyance while it is safeguarded until Person can negotiate a separate contract for storage and delivery with the Purchaser (see 1.27 for the definition of Secondary Private Helium).

4.2 In addition to the fees specified in paragraph 4.1, 4.2 outlines additional expenditures, requirements, and clarifies ownership of equipment.

(a) Person will reimburse the United States or Purchaser, as applicable, for the full amount of any expenses incurred by the United States (and not included in the fees identified in paragraph 4.1) for repair, construction, installation, or modification of any facilities, pipeline connections, metering stations, compressor stations, gas measurement software necessary for Person's connection to, or delivery into or from the Federal Helium Pipeline or the Helium Pipeline, as applicable, for the purpose of this Contract.

(b) Any such activity described in paragraph 4.2(a) which will require the expenditure of more than \$5,000, will be made only with the prior written consent of Person.

(c) In the event that Person refuses to consent to any such activity or fails to pay or reimburse the United States or Purchaser, as applicable, for any expense incurred by United States or Purchaser, as applicable under this paragraph 4.2, the United States and Purchaser, as applicable, will be relieved of any obligation to Person to accept helium under this Contract. United States and Purchaser additionally reserve the right to any other remedies available by law.

(d) Any facilities constructed or installed by the United States or Purchaser, as applicable, and paid for by Person pursuant to paragraphs 4.2, or 4.3, that may be removed without damaging or otherwise adversely affecting the Federal Helium System or the Helium System will remain the property of Person after any such facilities are no longer necessary for the purpose of this Contract and may be removed by Person within a reasonable time.

#### 4.3 Resource Management Fee

(a) If Person takes delivery of crude Primary Private Helium from the Federal Helium System or Helium System Person will pay to the United States or Purchaser, as applicable, a Resource Management Fee (RM) on a per Mcf basis for each Mcf of Primary Private helium that Person has in storage in the Federal Helium System or Helium System at 8 a.m. Central Time on the first day of the corresponding Contract Year. The RM fee provides reimbursements for the Government’s Crude Helium Enrichment Unit (CHEU) lease and repairs on equipment that is used to produce crude helium and natural gas; or the RM fee is a fee to the Purchaser for operation of its helium extraction equipment. Person agrees to pay the RM in 10 equal installments, with the first payment included in the November billing statement under Article V below. Subsequent installments will be included in each of the following monthly billing statements until the full amount of the RM is billed and installments will be due even if Person terminates the Contract early.

The RM is calculated as follows:

$$\frac{EA \times HP}{S(P)} = RM (\$/Mcf)$$

and

$$\frac{HV}{HV + NV} = HP$$

Where:

**EA** is the annual enrichment charge, which equals the BLM’s full cost associated with the operation repairs and infrastructure improvement of the CHEU or Purchaser’s full cost associated with the operation and repairs and infrastructure improvement of its helium extraction equipment.

**HV** is prior to the Conveyance, the total volume of crude helium produced by the CHEU and is transported through the federal helium pipeline which is calculated by using BLM Status Report Table 3 CHEU Product, in the prior Fiscal Year. Or after the Conveyance, the total volume of crude helium produced by Purchaser’s helium extraction equipment and transported through the Helium Pipeline for delivery to storage contract holders and not to Purchaser, which is calculated using a new report prepared by Purchaser after the Conveyance.

**NV** is the total volume of the natural gas produced before the Conveyance by the CHEU and is transported through the natural gas pipeline, which is calculated using BLM Status Report Table 3 residue gas, during prior Fiscal Year. Or after the Conveyance, the total



volume of natural gas produced by Purchaser's helium extraction equipment and transported through the natural gas pipeline, which is calculated using a new report prepared by Purchaser after Conveyance.

**HP** is prior to the Conveyance the percentage of CHEU operational cost associated with the processing of helium which is calculated by dividing the sum of total volume of the crude helium produced by the CHEU (HV) by the sum of the total volume of crude helium produced by the CHEU (HV) and the total volume of the natural gas produced by the CHEU (NV). Or after the Conveyance, HP is the percentage of Purchaser's helium extraction costs associated with the processing of helium for storage contract holders which is calculated by dividing the sum of total volume of the Primary Private crude helium produced by Purchaser's helium extraction equipment by the sum of the total volume of Primary Private crude helium produced by Purchaser's helium extraction equipment and the total volume of the natural gas produced by Purchaser's helium extraction equipment and multiplied by .75.

**S(P)** is prior to the Conveyance the total volume, in Mcf, of Primary Private helium in storage in the Federal Helium System owned by private owners connected to the Federal Helium Pipeline at the beginning of the Fiscal Year. After the Conveyance, **S(P)** is total volume, in Mcf, of Primary Private helium in storage in the Helium System owned by private owners connected to the Helium Pipeline at the beginning of the Fiscal Year.

**RM** is the Resource Management Fee in dollars per Mcf.

(b) If Person takes delivery of crude Secondary Private Helium from the Federal Helium System prior to the Conveyance (Person must have no Primary Private Helium left and the system cannot be under allocation), Person will pay to the United States, a Resource Management Fee (RM) on a per Mcf basis for each Mcf for each Mcf of Secondary Private Helium delivered during that month.

(c) If Person receives all of Person's Primary Private Helium prior to the end of the fiscal year, person must still pay all 10 installments of their RM fee or can pay the remaining balance in one payment.

## ARTICLE V

### Billing and Payment

5.1 On or before the 15th day of each month, the United States or Purchaser, as applicable, will transmit to Person a statement for the preceding month showing:

- (1) the volume of Primary or Secondary Private Helium-gas mixture, as applicable, accepted by the United States into the Federal Helium System, from Person;
- (2) the percentage of helium in such volume;
- (3) the volume of contained Primary or Secondary Private Helium;

- (4) the volume of Primary Private Helium-gas mixture delivered to Person by the United States or Purchaser, as applicable;
- (5) the percentage of Primary Private Helium in such delivered helium-gas mixture;
- (6) the volume of contained Primary Private Helium delivered;
- (7) the net volume of Person's contained Primary and Secondary Private Helium remaining in the Federal Helium System or the Helium System, as applicable; and,
- (8) the sum of money due and payable to the United States or Purchaser, as applicable for the succeeding month for the applicable fees specified in paragraphs 4.1 to 4.3, together with whatever calculations and any other information as may be required to substantiate the monthly activity.

5.2 Person will pay the amounts due the United States or Purchaser, as applicable, as billed under paragraph 5.1 within 30 days of the date of the bill.

5.3 The United States or Purchaser, as applicable, will bill Person separately for any amounts due the United States under Article IV, paragraph 4.2, or Article VII within 60 days after the United States determines the amounts due.

5.4 In the event of any error in the billing statement, Person shall notify the BLM or Purchaser's Representative, as applicable upon receipt regarding any obvious errors in billing amount. The BLM or Purchaser's Representative may revise and resend the billing statement based upon obvious errors or, for more complex errors, require Person to pay the amount billed notwithstanding such error. Any adjustment resulting from any overpayment by Person will be shown as a credit in the next billing statement after the error is resolved. Any underpayment by Person will be included in the next billing statement after the error is resolved. Any billing error must be initially raised within 1 year of the billing date containing the error or is deemed waived.

5.5 Before date of Government Assignment and Conveyance to Purchaser and in the event that Person fails to pay any amount due by the date due, interest will accrue on the unpaid amount, and the United States may collect the amount due together with interest, penalties, and any other applicable fees or amounts, under the Debt Collection Act of 1982, as amended, 31 U.S.C. §§ 3701 *et seq.*, and implementing regulations. After date of Government Assignment and the Conveyance and in the event that Person fails to pay any amount due by the date due, interest will accrue based on the yield of 10-year United States Treasury maturities as reported by the Federal Reserve Board in "Federal Reserve Statistical Release H.15" plus 2% rounded to the nearest one-eighth percent (1/8%) on the unpaid amount and the Purchaser may collect the amount due together with interest, penalties, and any other applicable fees or amounts as well as seek enforcement in the appropriate judicial forum.

## ARTICLE VI

### Measurement

6.1 Person will install, operate, and maintain at the points of delivery of contained Primary Private Helium and points of acceptance of Secondary Private Helium, and hereunder all of the equipment necessary for the measurement and analysis of the helium-gas mixture tendered by

Person to the United States or Purchaser, as applicable, and delivered by the United States or Purchaser to Person which is suitable, in the opinion of the Authorized Officer or Purchaser's Representative, as applicable, for the intended purpose. The United States or Purchaser will not be obligated either to accept Primary or Secondary Private Helium from Person for storage or to deliver Primary Private Helium to Person from storage whenever, in the opinion of the Authorized Officer or Purchaser's Representative, as applicable, any of the said equipment is unsuitable for the intended purpose. (Purchaser is also not obligated to accept Secondary Private Helium for storage if parties are unable to negotiate a new contract for the storage and delivery of Secondary Private Helium).

6.2 The United States or Purchaser, as applicable, may, at its option and expense, install data communication equipment on Person's measurement installation to obtain accurate measurements of helium volumes for billing purposes; however, no such data communication equipment will be installed by the United States or Purchaser in any way that would, in Person's opinion, interfere with the operation or the accuracy of Person's measurement equipment.

6.3 The unit of measurement for the Primary and Secondary Private Helium-gas mixture and contained helium will be "Mcf" as defined in Article I of this Contract. The helium-gas mixture will be measured at the pressure and temperature conditions in the measurement equipment. The measured volumes of helium-gas mixture and contained helium will be adjusted in accordance with Ideal Gas Laws, corrected for deviation as provided in this Article VI or as the parties may otherwise mutually agree in writing, to derive the accepted or delivered volume at standard temperature and pressure. For purposes of that adjustment calculation, the atmospheric pressure at the meter will be assumed to remain constant at the standard barometric pressure at the altitude of the measurement equipment.

6.4 The helium-gas mixture will be measured by orifice meters installed and operated in accordance with methods prescribed by the American Gas Association, Gas Measurement Committee Report No. 3, dated April 1955, as amended. Person will use the *Emerson ROC 809 Electronic Flow Meter (EFM) using Detailed Characterization Method (DCM)*, including the super-compressibility factors. The United States and Purchaser as applicable may approve or require other meters that meet operational and technical specifications.

6.5 Person will not install or use any new or replacement meter or measuring equipment to which this Article VI applies before the United States or Purchaser, as applicable, has approved the design and installation of the meter or equipment.

6.6 Person will perform the following minimum inspections and tests on orifice meters in the presence of authorized BLM Officer or Purchaser's Representative or other designated Contractors, employees, and agents:

(a) Person will remove and inspect the orifice plates at least once every 6 months (with no more than 200 days between inspections) or whenever data indicates to either party a potential error of the measurement system, upon notification.

(b) Person will inspect the meter tubes whenever requested by the United States or Purchaser and upon initial plant startup or installation of a new or replacement meter tube.

(c) Person will comply with all calibration requirements for EFM and Multi Variable Sensors (MVS) in the ROCLINK 800 User manual, ROC 809 Remote Operations Controller Instruction Manual, and all other related manufacturer manuals.

(d) The parties may agree upon additional tests and inspections or alternative times for the tests and inspections required under this Article VI.

6.7 Person will not install any attachments between the point of measurement and the Federal Helium Pipeline after initial startup without the written consent of the Authorized Officer. In addition, Person will not install any attachments between the point of measurement and the Helium Pipeline after initial startup without the written consent of Purchaser's Representative.

6.8 Person will calculate specific gravity and determine the percentage of helium by volume in the helium-gas mixture based on gas chromatograph analysis. Person will maintain and calibrate the gas chromatograph in accordance with its manufacturer's recommendations. Person must provide the gas used in calibration procedures and must obtain BLM's or Purchaser Representative's approval, as applicable, of that gas as the calibration standard. The chromatograph must measure helium, nitrogen, methane, and hydrogen. Person will measure other components as necessary so that at least 99.8 percent of the gas stream components are directly measured.

6.9 Person will maintain at the point of measurement suitable equipment to collect a sample each day proportionate to flow that is representative of the 24-hour helium-gas mixture tendered by Person or delivered by the United States or Purchaser, as applicable, that is adequate for laboratory analysis, consistent with the pressures and cylinder sizes specified in Section 4.1(f). Person will provide this sample to the United States or Purchaser as applicable. The United States or Purchaser's Representative, as applicable, will retain this sample until the United States or Purchaser, as applicable, witnesses the next meter inspection.

6.10 In addition to the inspections provided for under paragraph 6.6, each party will have the right, at reasonable times, to inspect metering facilities installed and operated by the other party in the presence of a representative of the installing party, and to request tests and witness tests thereof but not to alter or in any manner disturb or adjust the facilities of the other party. If either party desires a test or inspection of any meter, or if a party observes a variation between meters upon which a billing statement is based and any check meter, such party will promptly notify the other party thereof. Each party will give the other party reasonable notice of the time of monthly and annual tests and inspections of metering facilities 72 hours in advance of such tests and inspections so that the other party may have its representatives present.

6.11 If, upon test or inspection, operation of any equipment at any metering facility is found to be inaccurate by an amount exceeding 1.0 percent at a reading corresponding to the average rate of flow or condition for the period since the last preceding test or inspection, then the equipment will be adjusted to zero error and any previous readings will be corrected for zero error for the

period which is known or agreed upon; but in case the period is not known or agreed upon, such correction will be for a period equal to one-half of the time elapsed since the date of the last such test or inspection.

6.12 The volume of contained helium will be determined by multiplying the volume of helium-gas mixture by the volume percentage of helium. The helium percentage used in this computation will be determined by the recording analytical instrument described in paragraph 6.8 if it is operative; otherwise, a laboratory analysis of the representative sample described in paragraph 6.9 will be used to determine the contained helium for the day. One such computation will be made for the volume of contained helium tendered for delivery hereunder each 15-minute period or as determined by EFM.

6.13 Person will retain all records and electronic data generated by Person's metering facilities and any other information used for billing purposes for the period of this Contract and for 2 additional years thereafter. Person agrees to promptly provide to the BLM or Purchaser, as applicable, all records or data that the BLM or Purchaser's Representative may request.

6.14 In the event that any of the samples or any of the records or analyses mentioned in this Article VI are lost, damaged, or destroyed, and the parties are unable to otherwise agree on a basis for determining any calculation elements or measurement factors that are unknown by reason of such loss or damage, then the readings of such records or results of data analyses will be computed the same as the average corresponding readings or results prevailing in either a 5-day interval preceding or following the period in question, or both intervals if readings and results are available for each.

## ARTICLE VII

### Overdrawn Account

7.1 This next section applies only between the United States and Person and addresses both overdrafts of a monthly allocation (see 1.3) of Person's total storage volume and overdrafts during the final withdrawal of Person's remaining Primary and Secondary Private Helium under this Contract (if Person's final withdrawal occurs during the United States' management of the Federal Helium System) and associated potential disconnection from the Federal Helium System.

(a) The United States will provide e-mail notification that the storage account is overdrawn.

(b) For any month for which companies are under an allocation, if Person overdrafts more crude helium from the Federal Helium System than Person is allocated for that month, the United States will reduce delivery to Person in the next month by a volume equal to Person's overdrawn volume.

(c) Upon notification by the United States, Person will shall work to rectify the overdraw of the monthly allocation and will not withdraw anymore until the United States notifies Person that Person may resume withdrawal.

(d) If overdraw is associated with shutting in of the meter and permanent disconnection from the Federal Helium System or Helium System, and if helium is overdrawn by more than 10 Mcf, Person agrees to pay \$5,000 to the United States as liquidated damages.

(e) For overdraws other than those associated with (d), if Person overdraws its storage account for more than one monthly allocation period in a Contract Year, the United States may at its discretion, declare Person ineligible to receive helium deliveries for a period of up to three months. The fine noted in 7.1(d) only applies for overdraws described in (d).

(f) The remedies provided in this Article are not in derogation of any other remedy available to the United States, as applicable, by law.

7.2. This next section applies only between the Purchaser and Person after Government Assignment and Conveyance to Purchaser. This section addresses both overdraws of a monthly allocation (see 1.3) of Person's total storage and overdraws of Person's total storage volume during the final withdrawal of Person's remaining Primary Private Helium from this Contract and associated disconnection of the Helium System if Person does not enter a new contract with Purchaser after the conclusion of this contract.

(a) Purchaser's Representatives will provide e-mail notification that the storage account is overdrawn.

(b) For any month for which companies are under an allocation, if Person overdraws more crude helium from the Helium System than Person is allocated for that month, Purchaser's Representative will reduce delivery to Person in the next month by a volume equal to Person's overdrawn volume.

(c) Upon notification by the Purchaser's Representative, Person will shall work to rectify the overdraw of the monthly allocation and will not withdraw anymore until the Purchaser, notifies Person that Person may resume withdrawal.

(d) If overdraw is associated with shutting in of the meter and permanent disconnection from the Helium Pipeline and if helium is overdrawn by more than 10 Mcf, Person agrees to pay \$5,000 to the Purchaser as liquidated damages.

(e) For overdraws other than those associated with (d), if Person overdraws its storage account for more than one monthly allocation period in a Contract Year, Purchaser, may at its discretion, declare Person ineligible to receive helium deliveries for a period of up to three months. The fine noted in 7.1(d) only applies for overdraws described in (d).

(f) The remedies provided in this Article are not in derogation of any other remedy available to the Purchaser, as applicable, by law.

## ARTICLE VIII

### Right of Access

8.1 Person will grant to the United States or Purchaser, as applicable, such rights of access to land and facilities owned or controlled by Person as may be necessary for the performance of this Contract. Person further agrees to grant to the United States and Purchaser, as applicable, such rights-of-way as may be necessary for the BLM and Purchaser's Representative, its designated Contractors, employees, and agents, to install appropriate equipment for acceptance and delivery of helium into or from the Federal Helium Pipeline and Helium Pipeline, as applicable. All equipment placed by the United States or Purchaser and paid for by the United States or Purchaser, as applicable, upon land owned or controlled by Person will remain the property of the United States or Purchaser, as applicable. The United States and Purchaser will comply with the Person's reasonable environmental, health and safety rules.

## ARTICLE IX

### Liability and Force Majeure

9.1 Subject to the United States' authority under the Helium Act, as amended by the Helium Stewardship Act enacted on October 2, 2013, and any other applicable law, prior to the Conveyance the United States shall be responsible for the safe storage of Person's Primary and Secondary Private Helium, and the United States agrees to tender for delivery prior to the Conveyance as much of Person's Primary Private Helium and if all of Person's Primary Helium is delivered and the system is not under allocation, the United States also agrees to tender for delivery as much of Person's Secondary Helium, subject to the limitations of the Federal Helium System. Provided, however, that the United States shall have no liability to Person for any loss or damage to Person's volume of helium as a result of Force Majeure while such helium is in the possession of United States.

9.2 The Parties further understand, acknowledge, and agree that the United States shall not be liable for safe storage or delivery of Primary or Secondary Private Helium remaining in the Federal Helium System after the Government's Assignment and Conveyance to Purchaser. Subject to the terms of this Contract, after the Conveyance, the Purchaser, its successors, and assigns, shall assume and be fully responsible for the safe storage of Person's volume of Primary Private Helium remaining in the Helium System under this Contract and tender for delivery all of Person's Primary Private Helium remaining under this Contract at the rates assigned by this Contract. Provided however, that the Purchaser, its successors, and assigns, shall have no liability to Person for any loss or damage to Person's volume of Primary or Secondary Private Helium as a result of Force Majeure while such helium is in possession of Purchaser.

9.3 In the event of either Party being rendered unable, in whole or in part, to carry out any non-monetary obligation under this Contract as a result of force majeure, upon such Party giving notice in writing to the other Party as soon as possible after the occurrence of the force majeure event describing the particulars of the event, the obligations of the Party giving notice that are

affected by the force majeure event will be suspended. For purposes of this specific clause, Purchaser, its successors, and assigns, is included within the term “Party”.

(a) Such suspension will continue for the duration of the Party’s inability to carry out the obligation, but for no longer period.

(b) The Party giving notice agrees to remedy such inability to perform as soon as practically possible.

(c) Any loss of helium-gas mixture from the Federal Helium System or Helium System as a result of force majeure will be borne by all Parties, including the United States or Purchaser, its successors and assigns, as applicable, in proportion to each party’s ownership of the gas stored in the Federal Helium System or the Helium System, as applicable, as of the first day of the month in which the force majeure event occurs. Any such losses will be reduced by the same proportion of any recovery from any third party for causing a force majeure event. For losses only involving the pipeline, the Authorized Officer or Purchaser’s Representative, as applicable, will determine each Party’s proportional loss based on the Party’s withdrawal of helium from the Federal Helium System or the Helium System, as applicable, during the previous 24 hours. Prior to the conclusion of the In-Kind program, the calculation of this proportional loss using the previous 24-hour withdrawal amount would include any helium used by the In-Kind program for Federal users.

## ARTICLE X

### Termination

10.1 The United States or Purchaser, as applicable, may at their respective options terminate this Contract if Person continues to fail to comply with any provision of this Contract for a period of 60 days after receipt of notice of the non-compliance. The termination will be effective on the last day of the second month following the month in which Person receives notice of termination.

10.2 In the event of termination by the United States or Purchaser, as applicable, Person agrees:

(a) Person may sell all of Person’s stored helium above the volume referred to in paragraph (c) of this section to a third party who has a helium storage Contract with the United States Purchaser, as applicable within 90 days after termination of this Contract. Person must inform the United States or Purchaser’s Representative of the sale.

(b) To the extent that Person fails to sell all of its remaining stored helium under paragraph (a) of this section, the United States or Purchaser, as applicable may, on behalf of Person, sell such helium. The United States or Purchaser, as applicable, will arrange for the purchaser to pay the purchase price directly to Person, and Person agrees that the United States and Purchaser bears no liability to Person for any part of the purchase price.



(c) The United States or Purchaser, as applicable, may take title to and sell that portion of Person's stored helium in the Federal Helium System or the Helium System, as applicable, as is necessary to cover any unpaid amounts owed to the United States or Purchaser under this Contract. United States or Purchaser will inform Person of the sale price for the stored helium when obtaining reimbursement for any unpaid amounts.

10.3 Prior to the Conveyance, the United States may, at its option:

(a) Terminate this Contract in the event that Congress amends, repeals or withdraws, in whole or in part the appropriations or authorities contained in 50 U.S.C. §§ 167-167q as they exist on the date of execution of this Contract. Termination will be effective on the last day of the month in which Person receives notice of termination.

(b) In the event of termination by the United States under this section, the parties agree that Person retains ownership of its helium stored in the Federal Helium System, but Person is not required to pay any fees to the United States under this Contract.

10.4 Person may, at its sole option, terminate this Contract if—

(a) Person has given the United States or Purchaser's Representative, as applicable, 90 days written notice of its election to terminate;

(b) Person pays all applicable fees due through the end of the Contract Year; and

(c) All of Person's Primary Private Helium is removed or title thereto is transferred to a third party who has a FY 2022-FY 2027 storage Contract with the United States or Purchaser, as applicable by the proposed termination date.

## ARTICLE XI

### Disposal of Federal Helium System

11.1 The parties acknowledge that under applicable provisions of the Helium Act, as amended by the Helium Stewardship Act enacted on October 2, 2013, as they exist on the date of execution of this Contract, the United States will designate as excess the remaining assets in the Federal Helium System to the GSA on or before September 30, 2021. The GSA will permit the continued operation of the Federal Helium System and delivery of privately owned helium stored or transported in the Federal Helium System while it conducts its disposal process on behalf of the United States in accordance with the provisions of subtitle I of Title 40 of the United States Code.

11.2 The Parties agree that if the United States sells or transfers ownership of the Federal Helium System to a non-federal entity, the United States will, subject to applicable law at the time of sale or transfer, including but not limited to subtitle I of Title 40 of the United States Code, require as a condition of sale or transfer, that (i) the Purchaser or transferee, its successors and assigns, will take the Federal Helium System subject to Person's ownership interest in its

Primary Private Helium stored in the Federal Helium System; (ii) the Purchaser, its successors and assigns, will assume the obligations of the United States under this Contract to deliver Primary Private Helium stored in the Federal Helium System; and (iii) the Purchaser, its successors and assigns, or transferee will allow Person to withdraw all of Person's Primary Private Helium stored in the Federal Helium System subject to the terms and conditions of this Contract. Upon sale or transfer of ownership of the Federal Helium System to the Purchaser, this Contract will be assigned to the Purchaser subject to the terms and conditions of this Contract. Person agrees to release the United States from any and all performance obligations under the Contract upon Conveyance of the Contract to the Purchaser.

## ARTICLE XII

### Assignment of Contract

12.1 This Contract and all terms, conditions, and the covenants hereof, will be binding upon and inure to the benefit of the parties hereto, their successors, and assigns. If a party makes an assignment, they must notify the other party in writing 30 days in advance.

12.2 Assignment of Contract by Person.

(a) Person will have the right to transfer title to any part of their Primary Private Helium stored in the Federal Helium System or Helium System, as applicable as provided for in this Contract. Title may be transferred to any party that is in good standing and holds an equivalent helium storage Contract with the United States or Purchaser as applicable. Any transfer of Secondary Private Helium is not covered by this Contract and will require a separate independent contract with Purchaser.

(b) If Person is acquired by or merges with another entity holding a helium storage Contract with the United States or Purchaser, Person agrees that all fees under this Contract will continue until this Contract is terminated pursuant to Article X or the two Contracts are replaced by one Contract between the United States or Purchaser and the entity resulting from the merger.

12.3 Assignment of Contract by United States

(a) The United States will transfer this Contract to Purchaser upon Conveyance of the Federal Helium System and Purchaser shall fully assume and be responsible for delivery of Primary Helium as contemplated and provided for in this Contract during the term of this Contract.

## ARTICLE XIII

### Disputes

13.1 **This section only applies to disputes between the United States and Person.** Any dispute concerning a question of fact or law arising under this Contract, while the United States is a party to the Contract, which is not disposed of by agreement will be decided by the

Authorized Officer, who will render a decision and serve a copy thereof on Person. If Person disagrees with the Authorized Officer's decision, Person and the United States agree to incorporate the administrative review procedures of 43 C.F.R. 3165.3(b), and Person may appeal the Authorized Officer's decision to the State Director of the BLM State Office having jurisdiction over the Authorized Officer. Pending a final non-appealable decision of a dispute hereunder, both parties will proceed diligently with the performance of their obligations under this Contract and in accordance with the Authorized Officer's decision pursuant to this section 13.1.

**13.2 This section only applies to disputes between the Purchaser and Person.** Any disputes that arise after the Government Assignment and Conveyance will be disposed of strictly between Purchaser and Person whether by mutual written agreement or by seeking legal redress in the appropriate federal or state judicial forum. Person understands, acknowledges, and agrees that the United States shall no longer be a responsible party to either Purchaser or Person after Government Assignment and Conveyance and shall not be made a party any dispute or judicial proceeding pursuant to this Section 13.2.

## ARTICLE XIV

### Section 889 Disclosure and Certification

Section 889(a)(1)(B), Prohibition of Certain Telecommunications and Video Surveillance Services or Equipment of the Fiscal Year 2019 National Defense Authorization Act (Pub. L. 115-232) ("Section 889 Part B"), prohibits Contracts on or after August 13, 2020, between the Federal Government and any entity that uses certain covered telecommunications and surveillance equipment from five (5) identified Chinese national corporations.

By signature of this Contract, Person hereby certifies that their entity is in compliance with Section 889, Prohibition of Certain Telecommunications and Video Surveillance Services or Equipment of the Fiscal Year 2019 National Defense Authorization Act (Pub. L. 115- 232). Person specifically represents that it does not use covered telecommunications equipment or services, or use any equipment, system or service that uses covered telecommunications equipment or services. The statute prohibits Contracting by the Government with an entity that uses certain telecommunications equipment or services produced by the below entities, companies, affiliates, or subsidiaries:

• Huawei Technologies Company • ZTE Corporation • Hytera Communications Corporation • Hangzhou Hikvision Digital Technology Company • Dahua Technology Company

The prohibition of use of these telecommunications equipment or services applies regardless of whether or not that usage is related to the terms and conditions of this Contract and the certification extends until closing of the transaction as specified herein. This section will no longer apply after the Conveyance to Purchaser.

ARTICLE XV

Complete Agreement

15.1 This Contract constitutes the complete agreement between the United States or Purchaser, as applicable, and Person, and there are no oral promises, prior agreements, understandings, obligations, warranties, or representations between the United States or Purchaser, as applicable and Person relating to this Contract other than those set forth herein or as amended.

ARTICLE XVI

Notices

16.1 Prior to the Conveyance, all notices required under this Contract will be served by certified mail, return receipt requested, at the following addresses:

United States:     Authorized Officer  
                          Field Manager–Amarillo Field Office  
                          U.S. Bureau of Land Management  
                          801 South Fillmore Street, Suite 500  
                          Amarillo, Texas 79101-3545

Person: \_\_\_\_\_  
          \_\_\_\_\_  
          \_\_\_\_\_  
          \_\_\_\_\_

16.2 After to the Conveyance, all notices required under this Contract will be served by certified mail, return receipt requested to **Purchaser’s Representative, address to be provided to Person before the Conveyance.**

Article XVII

Execution

17.1 This Contract may be executed in duplicate original counterparts, and it will not be necessary for each party hereto to execute the same counterpart.

EXECUTED as of the dates adjacent to the signature lines, but effective as of 8:00 a.m., October 1, 2021.

THE UNITED STATES OF AMERICA

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Title: Field Manager–Amarillo Field Office

PERSON: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Title: \_\_\_\_\_