

BLM IN KIND CRUDE HELIUM SALES CONTRACT

NO. INC 22-

BETWEEN

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

AND

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BLM IN KIND CRUDE HELIUM SALES CONTRACT

Between

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and the

UNITED STATES OF AMERICA

This Contract, effective October 1, 2021, is made pursuant to the Helium Act, as amended by the Helium Stewardship Act (50 § U.S.C. 167), enacted on October 2, 2013, between the United States of America (hereinafter called United States), acting through the Bureau of Land Management (BLM) of the Department of the Interior, and \_\_\_\_\_ (hereinafter called Federal Helium Supplier, or Supplier), a corporation organized and existing under the laws of the State of \_\_\_\_\_, with principal offices at \_\_\_\_\_.

In consideration of the mutual promises and covenants contained herein, the BLM and Supplier agree as follows:

ARTICLE I

Definitions

- 1.1 Annual helium report – The term “annual helium report” means a report submitted to the BLM that documents the cumulative refined helium that Supplier delivered to Buyers during the annual reporting period.
- 1.2 Annual reporting period - The term “annual reporting period” means a period of time beginning at 12 a.m. Central Time on October 1 of 2021 and ending at 12 a.m. Central Time on September 30, 2022.
- 1.3 Authorized Officer - The term “Authorized Officer” means the person authorized to act on behalf of the BLM in approving, revising, managing, and terminating this Contract.
- 1.4 BLM - The term “BLM” means the Bureau of Land Management, Helium Operations, United States Department of the Interior, Amarillo, TX 79101
- 1.5 BLM billing date - The term “BLM billing date” means the date when the BLM provides Supplier with a statement of Supplier’s refined helium deliveries and crude helium purchases that occurred during the preceding quarterly reporting period. The BLM billing date shall occur not later than forty-five (45) days after Supplier submits its quarterly helium report to the BLM.
- 1.6 Buyer - The term “Buyer” means any Federal Agency, Federal Agency Contractor, or Extramural helium purchaser who wishes to purchase refined helium for a Major Helium Requirement.
- 1.7 Crude Helium - The term “crude helium” means a helium-gas mixture containing no more than ninety-nine (99) percent helium by volume

1.8 Day - The term “day” means a period of twenty-four (24) consecutive hours beginning at 12:00 a.m. and ending at 12:00 a.m. Central Time.

1.9 Equivalent amount of crude helium - The term “Equivalent amount of crude helium” means the amount of crude helium measured at a pressure of 14.65 psia and a temperature of 60° F, and rounded up to the nearest thousand (1,000) cubic feet, that is equivalent to a specified amount of refined helium measured at 14.7 psia and 70° F. All helium volumes at 14.7 psia and 70° F will be totaled prior to converting to 14.65 psia and 60° F. When converting from 14.7 psia and 70° F to 14.65 psia and 60° F, the volume shall be divided by 1.0158 before any rounding occurs. When converting from 14.65 psia and 60° F to 14.7 psia and 70° F, the volume shall be multiplied by 1.0158 before any rounding occurs.

1.10 Existing Agreement - The term “Existing Agreement” means any written agreement between the BLM and Supplier for the purchase of in-kind or Equivalent amounts of crude helium from the BLM whenever Supplier sells a Major Helium Requirement to a Buyer that is in effect as of the date that both Supplier and the BLM executed this Contract

1.11 Extramural helium purchaser - The term “extramural helium purchaser” means any Person, purchasing or wanting to purchase helium through the In-Kind program for use in Federal Government Contracts, cooperative agreements, or grants. The term does not include Federal Agencies but does include Federal Agency Contractors.

1.12 Federal Agency - The term “Federal Agency” means any agency, department, office, independent establishment, commission, administration, foundation, authority, board, or bureau of the United States Government, or any corporation owned, controlled, or in which the United States Government has a proprietary interest, as these terms are defined in 5 U.S.C. §§ 101-05; 5 U.S.C. § 551(1); 5 U.S.C. § 552(f); or in 18 U.S.C. § 6, but does not include Federal Agency contractors.

1.13 Federal Agency Contractor - The term “Federal Agency Contractor” means any individual, corporation, partnership, firm, proprietorship, association, trust, estate, public or private institution, or a State or political subdivision thereof that has entered into or that is obligated by a contract or cooperative agreement with a Federal Agency, or received a grant from a Federal Agency, or that subcontracts with a Federal Agency Contractor.

1.14 Federal helium - The term “Federal helium” means the crude helium owned and injected by the United States into the Federal Helium System, as defined in the Helium Stewardship Act, 50 U.S.C. § 167. Federal helium does not include private helium.

1.15 Federal Helium Supplier - The term “Federal Helium Supplier” or “Supplier” means a Person, who, by this Contract with the BLM, has refined helium available for sale to: (1) Federal Agencies; and/or (2) extramural helium purchasers.

1.16 Fiscal Year – The term “fiscal year” means a period of time beginning at 12:00 a.m. Central Time on October 1 of each year and ending at 12 a.m. Central Time on the following October 1.

1.17 The term “force majeure” shall include, but not be limited to, acts of God, strikes, lockouts, or other industrial disturbances, acts of public enemy, wars, hostilities, blockades,

insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, storms, floods, washouts, arrests, and restraint of rulers and peoples, civil disturbances, explosions, fire, act or threat of terrorism, breakage or accident to machinery, equipment, or lines of pipe, 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, not within the control of the party claiming suspension and which by the exercise of due diligence such party is unable to avoid. Settlement of strikes and lockouts shall be wholly within the discretion of the party having the difficulty.

1.18 Helium - The term "Helium" shall mean the element helium (He) regardless of its physical state.

1.19 Helium Requirement - The term "Helium Requirement" or "Requirement of Helium" means all helium, whether in the gaseous or liquid state or in mixtures with other gases, that is required by, or delivered to, a Federal Agency or extramural helium purchaser to accomplish an objective, project, mission, or program of the Federal agency.

1.20 Helium Storage Contract- The term "Helium Storage Contract" means a current contract between a person, as defined in the Helium Stewardship Act, 50 U.S.C. § 167, and the BLM for the storage and delivery of helium in the Federal Helium System.

1.21 Helium Storage Contract Holder - The term "Helium Storage Contract Holder" means a Person, who has a Helium Storage Contract with the BLM and who is in good standing under that Helium Storage Contract (defined as being able to accept transfers of helium and being current on all amounts due and payable under the Helium Storage Contract).

1.22 Major Helium Requirement - The term "Major Helium Requirement" means an estimated refined helium requirement greater than 200,000 standard cubic feet (scf) of gaseous helium or 7510 liters of liquid helium delivered to a helium use location per year, as defined in 43 C.F.R § 3195.11. If helium use at a particular location that was originally estimated to be less than a Major Helium Requirement is later determined to be a Major Helium Requirement by the BLM, then at the time of the revised determination, subsequent refined helium deliveries shall be covered by the provisions of this Contract.

1.23 Monthly helium report- The term "monthly helium report" means an optional report submitted to the BLM that documents the itemized refined helium that Supplier delivered to Buyers during the monthly reporting period.

1.24 Monthly reporting period – The term "monthly reporting period" means a one-month period of time during which Supplier delivers refined helium to Buyers. The first monthly reporting period is from 12 a.m. Central Time on October 1 through 12:00 a.m. Central Time on November 1. Each subsequent monthly reporting period begins at 12 a.m. Central time on the first day of each month and ends at 12:00 a.m. on the first day of the next calendar month. The last monthly report period ends at 12:00 a.m. on October 1, 2022.

1.25 Person - The term "Person" means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, or State or political subdivision.

1.26 Private helium - The term "private helium" means helium stored in the Federal Helium System that is not owned by the United States.

1.27 Quarterly helium report – The term “quarterly helium report” means a required report submitted to the BLM that documents the itemized refined helium that Supplier delivered to Buyers during the quarterly reporting period.

1.28 Quarterly reporting period – The term “quarterly reporting period” means a three-month period of time during which Supplier delivers refined helium to Buyers. The first quarterly reporting period is from 12 a.m. Central Time on October 1 through 12:00 a.m. Central Time on January 1. The second quarterly reporting period is from 12 a.m. Central Time on January 1 through 12:00 a.m. Central Time on April 1. The third quarterly reporting period for FY 2022 is from 12 a.m. Central Time on April 1 through 12:00 a.m. Central Time on July 1. The fourth and final quarterly reporting period for FY 2022 is from 12 a.m. Central Time on July 1 through 12:00 a.m. Central Time on October 1, 2022.

1.29 Refined Helium – The term “refined helium” means a helium-gas mixture containing more than ninety-nine (99) percent helium by volume

1.30 Standard cubic foot - The term “Standard cubic foot” (scf) means the volume of gaseous helium occupying one-cubic-foot when at a pressure of 14.7 pounds per square inch absolute (psia) and a temperature of 70° Fahrenheit (F). Volumes of liquid helium shall be expressed in liters or U.S. gallons. One liter of liquid helium is equivalent to 26.63 scf of gaseous helium. If approved by the Authorized Officer, Supplier may use appropriate gaseous equivalents of volumes of helium mixtures different in any way from the figures contained in this definition

## ARTICLE II

### Effective Date and Term

2.1 This Contract shall be effective on October 1, 2021, after execution by both BLM and Federal Helium Supplier, and shall remain in effect thereafter for an initial term that shall terminate at 12:00 a.m. on October 1, 2022. Unless the BLM assigns this Contract under Article XII, or Congress amends the authorities contained in 50 U.S.C. §§ 167 – 167q as they exist on the date of execution of this Contract, the total duration of this Contract, will not extend beyond 12:00 a.m. on October 1, 2022.

2.2 The last month for delivery of In-Kind helium to Federal Users will be September 2022, with reporting due October 15, 2022. Payment will be due by November 30, 2022 and the final In-Kind transfer will be December 1, 2022. If payment is not received by November 30, 2022, there will be no reimbursement for the In-Kind delivery by the Federal Helium Supplier to the Federal Agency Contractor or extramural helium purchaser.

## ARTICLE III

### Federal Helium Supplier

3.1 Supplier shall supply helium for: (1) Major Helium Requirements of a Federal agency; or (2) Major Helium Requirements of extramural helium purchasers for use in Federal Government contracts if procurement documents specify the intent, as determined by the BLM, that the helium to be furnished is required to accomplish an objective project, mission, or program of the Federal agency. If helium use at a particular location that was originally estimated to be less than a Major Helium Requirement is later determined by the BLM to be a Major Helium Requirement, then Supplier's refined helium deliveries made after the BLM has revised its Major Helium Requirement determination shall be covered by the provisions of this Contract and applicable regulations.

3.2 Supplier shall be a current Helium Storage Contract Holder.

3.3 Deliveries of refined helium pursuant to Article III paragraph 3.1 of this Contract shall be reported to the BLM on a quarterly and annual basis.

(a) Supplier and Buyers shall report to the BLM itemized deliveries of refined helium for Helium Requirements that Supplier made to Buyers during each quarterly reporting period by submitting a **quarterly helium report** to the BLM. Supplier and Buyers shall submit a quarterly helium report to the BLM not later than forty-five (45) days after the end of the quarterly reporting period. Supplier and Buyer shall submit quarterly helium reports to the BLM via mail, facsimile transmission, e-mail, or other mutually agreeable means arranged between the BLM and the Buyer or the BLM and Supplier. The quarterly helium reports shall include all information specified in [OMB Form number 3195-4](https://www.blm.gov/sites/blm.gov/files/BLM%20Form%201223-7%203195-4%20Final.xlsx), which is currently found on the BLM's website at <https://www.blm.gov/sites/blm.gov/files/BLM%20Form%201223-7%203195-4%20Final.xlsx>. The form and location of report are subject to change.

(b) Supplier shall report to the BLM cumulative deliveries of refined helium for Helium Requirements that Supplier made to Buyers during each annual reporting period by submitting an **annual helium report** to the BLM. Supplier shall submit an annual helium report to the BLM not later than forty-five (45) days after the end of the annual reporting period. Supplier shall submit annual helium reports to the BLM via mail, facsimile transmission, e-mail, or other mutually agreeable means arranged between the BLM and Supplier. If Supplier mails its annual helium report to the BLM, the annual helium report shall be postmarked on or before November 15 and mailed to the address stipulated in Article XV. The annual helium reports shall include all information specified in [OMB Form number 3195-4](https://www.blm.gov/sites/blm.gov/files/BLM%20Form%201223-7%203195-4%20Final.xlsx), which is currently found on the BLM's website at <https://www.blm.gov/sites/blm.gov/files/BLM%20Form%201223-7%203195-4%20Final.xlsx>. The form and location of report are subject to change.

3.4 Deliveries of refined helium pursuant to Article III paragraph 3.1 of this Contract may also optionally be reported on a monthly basis.

(a) Supplier may choose to submit optional monthly reports for any desired month in order to receive accelerated reimbursement of In-Kind crude helium equivalent to the amount of refined helium reported and delivered to Buyers that month. A Supplier is permitted to submit monthly reports for one, two, or all three months of any quarter.

(b) The submission of a monthly report does not excuse the supplier from also providing timely quarterly and annual reports, as required by articles 3.3(a) and 3.3(b). In any month when the Supplier chooses to submit a monthly report, the monthly report shall be submitted no later than fifteen (15) days after the end of the month. The monthly helium reports shall include all information specified in [OMB Form number 3195-4](#), which is currently found on the BLM's website at <https://www.blm.gov/sites/blm.gov/files/BLM%20Form%201223-7%203195-4%20Final.xlsx>. The form and location of report are subject to change.

(c) Any adjustments or revisions to monthly reporting totals shall be reflected in the quarterly report containing those months. If a Supplier is reimbursed for a month within a quarter, the supplier is not entitled to reimbursement for that same month as a part of the quarterly accounting. At the end of each quarter, any remaining reimbursements will be processed, and Suppliers will be reimbursed for In-Kind crude helium equivalent to the amount of refined helium reported and delivered to Buyers for that quarter, after subtracting any monthly reimbursements (for the months contained in that quarter) and reconciling any reported adjustments or revisions.

3.5 If Supplier fails to submit a quarterly helium report or an annual helium report to the BLM as specified in paragraphs 3.3(a) and 3.3(b), then Supplier shall incur a penalty fine of one thousand (\$1,000) dollars for each instance of non-compliance. More than one instance of non-compliance shall be sufficient grounds for the BLM to terminate this Contract. The Authorized Officer may waive the penalty fine or termination option for good cause. If Supplier is submitting monthly helium reports, Supplier will be deemed non-compliant only if a quarterly report is missed.

3.6 Whenever Supplier sells helium under Article III paragraph 3.1 of this Contract, Supplier shall make payment to purchase an Equivalent amount of crude helium from the BLM within thirty (30) days of the BLM billing date.

3.7 This Contract supersedes and replaces all Existing Agreements between the BLM and Supplier for the purchase of in-kind or Equivalent amounts of crude helium. All Existing Agreements are hereby terminated, and any outstanding refined helium delivered by Supplier under an Existing Agreement for which Supplier has not purchased an Equivalent amount of crude helium shall be covered by the terms of this Contract. Supplier shall make its pertinent records and documents supporting its sales of helium from prior Existing Agreements readily available for full inspection and audit by the BLM's authorized representative(s) or other designated representative of the Department of the Interior for a period of six years after termination of such agreements.

3.8 Supplier shall make its pertinent records and documents supporting its deliveries of helium readily available for full inspection and audit by the BLM's authorized representative(s) or other designated representative of the Department of the Interior. The Authorized Officer or his duly authorized representative(s) shall have access to and the right to examine, during Supplier's normal business hours, any pertinent or applicable books, documents, and records involving transactions related in any way to this Contract. Supplier shall maintain all pertinent and applicable records in accordance with 30 U.S.C. § 1713(b).

3.9 This Contract constitutes the complete agreement between Supplier and the BLM, and there are no oral promises, prior agreements, understandings, obligations, warranties, or

representations between the BLM and Supplier relating to this Contract other than those set forth herein or as amended.

#### ARTICLE IV

##### Bureau of Land Management Responsibilities

4.1 Within fifteen (15) days of the effective date of this Contract, the BLM will place Supplier's name and address on the BLM of Land Management list of authorized Federal Helium Suppliers.

4.2 When a Federal Agency or extramural helium purchaser submits a written request for the list of authorized Federal Helium Suppliers, the BLM will furnish its list of authorized Federal Helium Suppliers to the requesting Federal Agency or extramural helium purchaser pursuant to 43 C.F.R. § 3195.23.

4.3 Pursuant to 43 C.F.R. § 3195.32, the BLM will furnish, upon written request by Supplier, a list of Federal Agencies and Federal Agency Contractors that have purchased a Major Helium Requirement during the past year.

#### ARTICLE V

##### Delivery, Pricing and Charges

5.1 The BLM shall deliver crude helium purchased by Supplier under this Contract pursuant to the delivery provisions in Supplier's current Helium Storage Contract.

5.2 Upon receiving notification from Supplier of a delivery of refined helium by Supplier to a Buyer, the BLM shall record a purchase of an Equivalent amount of crude helium not later than the BLM billing date. The BLM shall bill Supplier for all purchases of crude helium on the BLM billing date which shall occur not later than forty-five (45) days after Supplier submits its quarterly helium report to the BLM. Each fiscal year, the BLM may inspect and audit Supplier's records and documents, including but not limited to all contracts and invoices, pertaining to Supplier's reported deliveries of refined helium to Buyers. In the event the BLM identifies a discrepancy between the volume of refined helium Supplier delivered to a Buyer and the volume of refined helium Supplier reported to the BLM, the BLM shall adjust volume of crude helium Supplier purchased from the BLM and the dollar the amount due to the BLM in a subsequent billing statement.

5.3 Confirmed purchases of crude helium shall be credited to Supplier's helium storage account on the first day of the month after the BLM receives payment for crude helium purchased by Supplier.

5.4 Supplier agrees that continued deliveries of refined helium under this Contract shall not be allowed if payment of confirmed crude helium purchases remain outstanding after ninety (90) days from the BLM billing date. All Buyers will be notified of the outstanding delinquency, and the BLM will proceed with administrative action in accordance paragraph 6.5 of this Contract.

5.5 Pursuant to the Helium Act, as amended by the Helium Stewardship Act, the BLM shall determine the In-Kind Helium price and effective date at which crude helium is sold under this Contract. The BLM is solely responsible for determining such In-kind Helium price and such



price shall be nonnegotiable. Beginning in FY 2020, the In-Kind price will be adjusted annually based on the changes to Consumer Price Index.

## ARTICLE VI

### Billing and Payment

6.1 On the BLM billing date, which shall occur not later than forty-five (45) days after Supplier submits its quarterly, or fifteen (15) days after Supplier submits its monthly helium report to the BLM, the BLM shall provide Supplier with a billing statement of all of Supplier's refined helium deliveries and crude helium purchases that occurred during the preceding quarterly or monthly reporting period. The statement shall show:

(1) Federal agency, Federal agency contractor, extramural helium purchaser and/or outstanding balance from prior contract;

(2) date(s) of sale or delivery;

(3) the volume of refined helium at 14.7 psia and 70° F in cubic feet for each location;

(4) the location of each delivery;

(5) the total volume of confirmed crude helium purchases;

(6) the total outstanding volume of proposed crude helium purchases;

(7) the Equivalent amount of crude helium to be purchased, which will be measured at 14.65 psia and 60° F and rounded up to the nearest thousand (1,000) cubic feet; and,

(8) the sum of money due and payable to the BLM because of applicable charges specified in Article V, together with whatever calculations and any other information in addition to the aforementioned as may be required to substantiate the quarterly or monthly activity. Helium volume conversions between pressure and temperature bases shall use the factors as defined in this Contract.

6.2 Supplier shall pay to the BLM the amounts due the BLM as billed in accordance with paragraph 6.1 above within thirty (30) days of the BLM billing date.

6.3 In the event Supplier discovers an error in the BLM's billing statement, or in any of the evidence submitted in support of such statement, Supplier shall pay the amount billed and upon correction of said error, adjustments of any amounts due shall be made on the billing statement for the succeeding quarter following agreement between the parties on the correction of such errors. In the event that either party discovers an error in any billing statement, or in any payment or documents submitted pursuant to this Article VI, such error shall be adjusted within the next billing cycle following determination of the extent of such error provided that claim shall have been made within twelve (12) months from the date of such billing statement or the submission of such payment or documents.

6.4 In the event that the BLM's billing statement is delayed beyond forty-five (45) days after Supplier submits its quarterly or fifteen (15) days after Supplier submits its monthly helium

report to the BLM, then the time for payment by Supplier shall be extended by the period of such delay.

6.5 In the event Supplier fails to make any payment in accordance with this Article VI within thirty (30) days after date on which such payment is due, the BLM may collect each delinquent payment in accordance with the Debt Collection Improvement Act of 1996, as amended, which includes administrative fees and other penalties.

## ARTICLE VII

### Liability and Force Majeure

#### 7.1 Liability

(a) Subject to the United States' authority under the Helium Act, as amended by the Helium Stewardship Act, and any other applicable laws, the BLM warrants the quantity of contained helium in crude form delivered to Supplier only and assumes no further liability, financial or otherwise, in connection with any sale or delivery of helium hereunder, including but not limited to claims relating to: (1) losses on business transactions or commitments between Supplier and third parties; (2) losses on Supplier's helium containers filled; or (3) losses occasioned by transportation delays.

(b) Supplier shall be liable for any and all actual damages to the BLM caused by Supplier, Supplier's representatives, or Supplier's owned or leased equipment.

(c) Supplier is hereby advised that to the extent that supplies are available, refined helium requirements of the United States Government shall have priority over non-Government requirements and that such priority requirements of the Government or occasions of force majeure may cause delay or deferral of shipment of any refined helium deliveries by Supplier for non-Government requirements.

#### 7.2 Force Majeure

(a) In the event of either party's being rendered unable wholly or in part by force majeure to carry out its obligations under this Contract, other than to make payments of amounts due hereunder, it is agreed that on such party's giving notice in writing or by mail or facsimile transmission to the other party, stating the full particulars of such force majeure as soon as possible after the occurrence of the cause stated in said notice, the obligations of the party giving such notice, so far as they are affected by such force majeure, shall be suspended during the continuance of any inability so caused but for no longer, and such inability to perform shall, so far as possible, be remedied with all reasonable dispatch. Either party shall be excused from performance and shall not be in default or breach of contract in respect of any obligation hereunder to the extent that the failure to perform such obligation is due to force majeure. Should any losses of helium occur from the Federal Helium System as a result of force majeure, such helium losses shall be borne by all persons and companies, including the BLM, storing helium in the Federal Helium System in accordance with the provisions of the Helium Storage Contract.

(b) The United States, acting through the BLM of the Department of the Interior, shall have no liability to Supplier or any third party for any loss or damage to Supplier's or third party's volume of helium as a result of force majeure while such helium is in the possession of the United States.

(c) The United States, acting through the BLM shall have no liability to Supplier or any third party for any delay in delivery or loss of Supplier's or third party's helium as a result of force majeure.

(d) The United States, acting through the BLM shall not indemnify nor agree to hold harmless Supplier or any third party against any liabilities, costs, attorney's fees, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, penalties, legal costs and all other professional costs and expenses) suffered or incurred by Supplier or any third party relating to any delays in delivery or loss of helium to Supplier or a third party.

### 7.3 Termination

(a) This Contract may be terminated at any time by either party by serving not less than one hundred and twenty (120) days written notice of termination upon the other party, stating therein the date that such termination shall be effective. In the event of contract termination under the provisions of this Contract, Supplier shall report to the BLM cumulative deliveries of refined helium that Supplier made to Buyers during the period of 12:00 a.m. on October 1 to the effective date of the termination. Supplier shall submit this report not later than forty-five (45) days after the effective date of the termination. Termination of this Contract does not relieve either party of any charges or payments that were due prior to or after notification of termination by either party to this Contract.

(b) The BLM may, at its option, terminate this Contract if Supplier fails to pay any of the charges specified in this Contract for one hundred twenty (120) days after the BLM provides Supplier with written notice of Supplier's delinquency.

(c) The BLM may, at its option, terminate this Contract if Supplier does not supply a Major Helium Requirement to a Federal Agency or Federal Agency Contractor and is without a purchase order, contract, or agreement to do so for a period of two (2) years.

(d) If either party initiates termination procedures under any provision of this Contract, Supplier shall provide the BLM with a copy of each current purchase order, contract, or agreement that Supplier has with any Federal Agency, Federal Agency Contractor, or extramural helium purchaser to provide a Major Helium Requirement. The BLM will use this information so that it may minimize disruption of the Government's refined helium needs through coordination with the effected Buyers.

### 7.4 Assignment of Contract

(a) Supplier cannot assign or otherwise transfer this Contract without the express written approval of the Authorized Officer, which shall not to be unreasonably withheld.

(b) This Contract and all its terms, conditions, and covenants herein, shall be binding upon and inure to the benefit of the parties hereto, their successors, and assigns.

(c) The BLM may assign any or all of its rights and responsibilities hereunder to another department of the United States or to any other entity approved by the BLM of Land Management.

#### 7.5 Disputes

(a) Any dispute concerning a question of fact or law arising under this 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 Supplier.

(b) If Supplier disagrees with the Authorized Officer's decision, Supplier and the United States agree to incorporate the administrative review procedures of 43 C.F.R. § 3165.3(b), and Supplier may appeal the Authorized Officer's decision to the State Director of the BLM State Office having jurisdiction over the Authorized Officer.

(c) 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.

### ARTICLE VIII

#### Covenant Against Contingent Fees

8.1 Supplier warrants that no person or selling agency has been employed or retained to solicit or secure this Contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by Supplier for the purpose of securing business. For breach or violation of this warranty, the BLM shall have the right to annul and terminate this Contract without liability or in its discretion to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

### ARTICLE IX

#### Amendment

9.1 This Contract may be amended only by mutual written consent of Supplier and the BLM by and through the Authorized Officer.

### ARTICLE X

#### Effect of Illegality

10.1 Should any portion of this Contract be determined by a court of competent jurisdiction to be illegal; the remainder of the agreement shall not be affected by such determination.

ARTICLE XI

Choice of Law

11.1 This Contract shall be governed and interpreted according to the laws of the Federal government of the United States and the parties agree to submit to the exclusive jurisdiction of the courts of the United States with respect to all disputes or matters arising out of or pertaining to this Contract.

ARTICLE XII

Attorneys' Fees

12.1 If any action at law or in equity, including an action for declaratory relief, is brought to enforce or interpret the provisions of this Contract, all parties to the litigation shall bear their own attorneys' fees and costs; provided, however, that attorneys' fees and costs against the United States shall be governed by applicable Federal law, including the Equal Access to Justice Act, 28 U.S.C. § 2412.

ARTICLE XIII

Officials Not to Benefit

13.1 No member of or delegate to Congress, or resident Commissioner, shall be admitted to any share or part of this Contract, or to any benefit that may arise therefrom; but this provision shall not be construed to extend to this Contract if made with a corporation for its general benefit.

ARTICLE XIV

Supplier Not to Discriminate

14.1 During performance of this Contract, Supplier shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, or national origin.

ARTICLE XV

Notices

15.1 All notices to be given hereunder shall be written and delivered or sent to the parties 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

Supplier: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Article XVI

Execution

16.1 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 12:00 a.m., October 1, 2021.

THE UNITED STATES OF AMERICA

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

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

Title: Field Manager–Amarillo Field Office

Supplier: \_\_\_\_\_

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

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

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