

**AGREEMENT FOR THE SALE OF
ROYALTY GAS
BETWEEN
THE STATE OF ALASKA
AND**

TABLE OF CONTENTS

Article I – Definitions

Article II – Special Commitments

Article III – Sale and Purchase of Gas

Article IV – Invoicing and Payment

Article V – Buyer’s Representations and Obligations

Article VI – Assurance of Performance

Article VII – Measurements.....

Article VIII – Effective Date and Term

Article IX – Default or Termination

Article X – Disposition of Buyer’s Royalty Gas Upon Default or Termination

Article XI – Non-Waiver

Article XII – Dispute Resolution

Article XIII – Severability

Article XIV – Force Majeure

Article XV – Notices

Article XVI – Rules and Regulations

Article XVII – Sovereign Power of the State

Article XVIII – Applicable Law

Article XIX – Warranties

Article XX – Amendment

Article XXI – Successors and Assigns

Article XXII – Records

Article XXIII – Employment of Alaska Residents

Article XXIV – Counterparts.....

Article XXV – Miscellaneous.....

Article XXVI – Reopener

Exhibit 1 – Map Which Defines the Foothills

Exhibit 2 – Eligible Expenditures for Exploration Work Commitment

**AGREEMENT FOR THE SALE AND
PURCHASE OF ROYALTY GAS**

This Agreement is between the State of Alaska (“State”) and _____ (“Buyer”). The date of this Agreement for reference purposes is _____, 2002.

Buyer intends to explore for and develop Gas believed to be in the Foothills, and to transport that Gas to market using the Gas Pipeline. Buyer believes that it will be required to participate in an Open Season for the Gas Pipeline and to contract for ship-or-pay transportation before it knows how much Gas can be recovered from the Foothills. Buyer has made this Agreement with the State to ensure that it has enough gas to satisfy its obligation to ship on the Gas Pipeline if it does not have adequate gas in the Foothills. The intent of the Agreement is to supply Buyer with a constant daily volume of Gas until Buyer can displace Buyer’s Royalty Gas with New Gas at which time the volume of Buyer’s Royalty Gas shall be reduced or eliminated.

**ARTICLE I
DEFINITIONS**

As used in this Agreement, the terms listed below shall have the following meanings:

1.1 “AEC” means AEC Marketing (USA) Inc. and AEC Oil & Gas (USA) Inc.

1.2 “Affiliate” means any Person affiliated with a Party. A Party is affiliated with another Person if one of them controls the other, or if both are controlled by a third Person. One

Person controls another if it has the power to direct or cause the direction of the management and policies of the other Person, whether directly or indirectly, through one or more intermediaries or otherwise, and whether by virtue of the ownership of shares or other equity interests, the holding of voting rights or contractual rights, or otherwise.

1.3 “Anadarko” means _____.

1.4 “Annual Nomination” is defined in Section 3.1.5.

1.5 “ANS” means the Alaska North Slope.

1.6 “Base Price” is defined in Section 3.3.1.

1.7 “Bonus Payment” means Buyer’s one-half share of the \$350,000 payment by Buyer and [AEC] [Anadarko] with their Offer to Purchase North Slope Royalty Gas dated January 31, 2002.

1.8 “Business Day” means any Day except a Saturday, Sunday, or federal holiday in the United States.

1.9 “Buyer’s Royalty Gas” means that portion of Total Royalty Gas the State has agreed to sell to Buyer and Buyer has agreed to purchase each Day under this Agreement.

1.10 “Calendar Year” means a period of 12 consecutive Months beginning at 12:00:01 a.m. on January 1.

1.11 “Commissioner” means the Commissioner of the Alaska Department of Natural Resources or the Commissioner’s designee.

1.12 “Day” means a period of twenty-four (24) consecutive hours, beginning at 12:00:01 a.m., Alaska Standard Time.

- 1.13 “Day of First Delivery” is defined in Section 3.6.1.
- 1.14 “Effective Date” is defined in Section 8.2.
- 1.15 “Eligible Expenditures” are defined in Article II and Exhibit 2.
- 1.16 “Events of Default” are defined in Article IX.
- 1.17 “Exploration Work Commitment” means the requirement to explore for natural gas in the Foothills in accordance with Article II.
- 1.18 “1980 FCSA” means the Settlement Agreement dated April 1, 1980 (for reference purposes) between the State and the ANS lessees, which was filed in Civil Action 77-847.
- 1.19 “Firm Transportation Contract” means Buyer’s contract for uninterrupted transportation service on the Gas Pipeline at a volume and price and on terms acceptable to Buyer.
- 1.20 “Firm Transportation Volume” means the maximum volume of Gas Buyer may ship per Day under its Firm Transportation Contract.
- 1.21 “Foothills” means the area shown in the map attached as Exhibit 1.
- 1.22 “Gas” means natural gas in the gaseous phase, including NGLs in the gaseous phase.
- 1.23 “Gas Pipeline” means the pipeline to be constructed to deliver ANS gas from the North Slope to delivery points in the Lower 48 United States and Canada, with possible delivery points in Alaska.
- 1.24 “In-Service Date” means the date the Gas Pipeline is first placed in full and continuous service and Buyer becomes obligated under the Firm Transportation Contract to pay

demand or similar charges.

1.25 “Joint Venture Participants” means Buyer, [AEC] [Anadarko], and others who hold a working interest in oil and gas leases in the Foothills and who have agreed to explore for Gas in the Foothills.

1.26 “Leases” means the oil and gas leases issued by the State and subject to the terms of either the Prudhoe Bay Unit Agreement or Point Thomson Unit Agreement.

1.27 “Lessee” means a person, as “person” is defined in Alaska Statutes 01.10.060, owning a working interest in any of the Leases.

1.28 “Letter” is defined in Article VI.

1.29 “Maximum Quantity” is defined in Section 3.1.2.

1.30 “Mcf”; “MMcf”; “Bcf”– “Mcf” means one thousand (1,000) Standard Cubic Feet; “MMcf” means one million (1,000,000) Standard Cubic Feet; and “Bcf” means one billion (1,000,000,000) Standard Cubic Feet.

1.31 “MMBtu” means one million (1,000,000) British Thermal Units.

1.32 “Month” means a period beginning at 12:00:01 a.m., Alaska Standard Time, on the first Day of the calendar Month and ending at 12:00:01 a.m., Alaska Standard Time, on the first Day of the following calendar Month.

1.33 “New Gas” means Gas shipped under the Firm Transportation Contract from sources other than the Units.

1.34 “New Gas Day” means the first Day New Gas is shipped on the Gas Pipeline.

1.35 “NGLs” means natural gas liquids.

1.36 “Notice” means written notice in accordance with Article XV.

1.37 “Open Season” means the period during which Buyer may enter into a Firm Transportation Contract.

1.38 “Option Period” means any of the option to purchase periods described in Article III.

1.39 “Parties” means, collectively, Buyer and State.

1.40 “Party” means Buyer or State, individually.

1.41 “Person” is defined in AS 01.10.060.

1.42 “Point of Delivery” means the location or locations where the State receives Buyer’s Royalty Gas in-kind from the Lessees.

1.43 “Price” is defined in Section 3.3.

1.44 “Price Premium” is defined in Section 3.3.2.

1.45 “Rate” is defined in Section 4.8.

1.46 “Reserved Gas” is defined in Paragraph 3.1.8(a).

1.47 “Royalty Value” is defined and calculated as shown in Article III.

1.48 “Total Royalty Gas” means the total volume of Gas produced each Day from the Prudhoe Bay and Point Thomson Units that the State takes as its royalty under the Leases, whether in-kind or in-value.

1.49 “Unit Agreement” means the Prudhoe Bay or Point Thomson Unit Agreement, as appropriate.

1.50 “Unit” means the Prudhoe Bay Unit or the Point Thomson Unit, as appropriate.

1.51 "Year" means a period of 12 consecutive Months.

ARTICLE II
SPECIAL COMMITMENTS

2.1 Exploration Work Commitment. Buyer commits to one-half of an Exploration Work Commitment of \$50 million in the Foothills during the period January 1, 2002 through December 31, 2007. Only Eligible Expenditures by Buyer and its Joint Venture Participants will count toward fulfilling the Exploration Work Commitment. Eligible Expenditures counting toward the Exploration Work Commitment are listed in Exhibit 2 attached to this Agreement.

2.2 Condition of Buyer Obtaining Transportation. The Exploration Work Commitment is conditional upon the Buyer obtaining a Firm Transportation Contract.

2.3 Early Termination. If the Agreement is terminated for any of the reasons in Section 8.1, then any remaining Exploration Work Commitment will be deemed to be zero.

2.4 Liquidated Damages for Failure to Complete Work Commitment. Subject to Section 2.3:

(a) On or before April 25, 2008, Anadarko and AEC shall provide to the State a joint report showing the Eligible Expenditures by Buyer and its Joint Venture Participants. If the Joint Venture Participants fail to spend the \$50 million Exploration Work Commitment by December 31, 2007, the report shall provide an allocation of the shortfall between Anadarko and AEC. Buyer shall pay to the State the amount allocated to it under the report, as liquidated damages, by April 25, 2008.

(b) In the event Anadarko and AEC do not provide a joint report allocating

any shortfall, Buyer shall pay to the State, as liquidated damages, a lump-sum payment equal to the difference between one-half of \$50 million and Buyer's Eligible Expenditures. Buyer shall make this payment by April 25, 2008.

2.5 Training Commitment. If Buyer makes a commercial discovery in the Foothills, Buyer will train local laborers to fill available positions in the state of Alaska. Beginning the Year following declaration by Buyer of a commercial discovery, Buyer shall spend on training not less than \$12,500 per Year, for a period of ten (10) Years. If Buyer fails to meet the \$12,500 training obligation in any Year, Buyer shall pay to the State, as liquidated damages, an amount equal to the difference between \$12,500 and the amount actually spent on training for the Year. Such amount shall be paid by Buyer to the State on or before April 25th of the following Calendar Year.

2.6 Reason for Liquidated Damages. The Parties agree that it would be difficult to determine damages if Buyer failed to make the expenditures required by Sections 2.1 and 2.5. Consequently, the Parties have agreed to liquidated damages as provided in Sections 2.4 and 2.5.

2.7 Conditions. Buyer is not required to make any Eligible Expenditures until (1) it has obtained the permits necessary to conduct in the Foothills the operations identified in Exhibit 2, and (2) the Agreement has been approved under Section 8.1.

2.8 Performance. The Parties recognize that AEC Oil & Gas (USA) Inc. or its successor in interest may perform the Exploration Work Commitment.

2.9 In-State Processing and Use. Buyer commits to a preference for in-State use or processing of Buyer's Royalty Gas and any Gas discovered in the Foothills. It is not possible

now to know whether Gas will be available or, if available, how it might be processed or used in-State. If either Party later believes in-State processing or use would be beneficial, the other Party on request will agree to meet and to negotiate in good faith for processing or use, but neither Party is obligated to take actions or to enter into an agreement it believes is not in its best interests.

ARTICLE III **SALE AND PURCHASE OF GAS**

3.1 Quantity.

3.1.1 Options to Purchase. The State grants to Buyer a series of options to purchase up to thirty-five percent (35%) of the Total Royalty Gas. Each option shall be for a period of five (5) years, except the last Option Period of the final option exercised may be five (5) years or less, as specified by Buyer when the last option is exercised.

3.1.2 Maximum Quantity. When Buyer exercises an option, Buyer must specify the maximum percent of Total Royalty Gas that it will take on any Day during the five-year Option Period. The amount must be specified as a percent of Total Royalty Gas and cannot exceed thirty-five percent (35%). The percent specified is the Maximum Quantity available to Buyer on any Day during the five-year Option Period.

3.1.3 Determination of Maximum Quantity.

(a) It is anticipated that the Open Season will occur at least five years before the In-Service Date. Promptly after official notice of the Open Season, the Buyer and the State will cooperate to:

(i) estimate Total Royalty Gas from each Unit;

(ii) estimate any field, conditioning, or processing costs, and

(iii) learn about processing or conditioning facilities, how those facilities will work, and the volume of Gas which will be consumed in those facilities. The State will make diligent inquiry to its Lessees and take all other reasonable steps (but not litigation) necessary to help Buyer obtain this information, but the State is not liable if it is unable to obtain the information or if the information is not accurate. Buyer will use the information to participate in the Open Season.

(b) Within 30 days following the execution of a Firm Transportation Contract, Buyer shall give the State Notice of the Maximum Quantity.

3.1.4 Change in Maximum Quantity. At Buyer's request approximately fourteen (14) Months before the In-Service Date, Buyer and the State will repeat the process described in Section 3.1.3(a). At least twelve (12) Months before the In-Service Date (or twenty-four (24) Months if New Gas will enter the Gas Pipeline on the In-Service Date), Buyer may revise the Maximum Quantity by giving Notice to the State.

3.1.5 Annual Nomination.

(a) The goal of the Parties is that the volume of Buyer's Royalty Gas remain constant (or decline) over the term of this Agreement. Because of the Lease terms, the amount of Total Royalty Gas the State wants to take in-kind must be specified as a percent of Total Royalty Gas and not as a volume. Therefore, if the volume of Total Royalty Gas changes, it will be necessary to adjust the percent of Total Royalty Gas taken by Buyer in order to maintain

delivery of a constant volume to Buyer. The Parties recognize that it may not be possible to achieve a perfectly constant volume.

(b) At least seven (7) Months before the In-Service Date and not more than once each Calendar Year afterward, Buyer shall give the State Notice of Buyer's Annual Nomination. Each Annual Nomination shall be expressed as a percent of Total Royalty Gas and shall be effective on the first Day of the seventh Month after the Annual Nomination is received by the State. Buyer must take and pay for the actual quantity of Buyer's Royalty Gas delivered to the Point of Delivery. Each Annual Nomination:

- i. shall be in effect until changed in accordance with this Agreement;
- ii. cannot exceed the Maximum Quantity for that Year;
- iii. cannot cause a change in volume greater than that permitted by the applicable Unit Agreement.

(c) i. An Annual Nomination, which becomes effective on or after the New Gas Day, must be calculated to hold the volume of Buyer's Royalty Gas constant or reduce the volume of Buyer's Royalty Gas. If an Annual Nomination effective on or after the New Gas Day reduces the volume of Buyer's Royalty Gas, the volume of Buyer's Royalty Gas shall not be increased by a later Annual Nomination or when specifying a Maximum Quantity while exercising an option.

ii. If an Annual Nomination which is effective before the New Gas Day reduces the volume of Buyer's Royalty Gas, the volume of Buyer's Royalty Gas may later be increased by an Annual Nomination effective before the New Gas Day but only to the extent

necessary to make the Buyer's Royalty Gas volume equal the Firm Transportation Volume or, if less, to 35 percent of Total Royalty Gas.

iii. The intent of this Section 3.1.5 specifically and this Agreement generally is that, subject only to errors in forecasting the volume of Total Royalty Gas, the volume of Buyer's Royalty Gas will be constant and equal to the Firm Transportation Volume until the New Gas Day and that after the New Gas Day the volume of Buyer's Royalty Gas can only be reduced.

(d) Buyer shall give the State two (2) Years Notice before the New Gas Day.

(e) In addition to the Annual Nomination each Calendar Year contemplated by Section 3.1.5(b), Buyer may make an Annual Nomination any time that the volume of Buyer's Royalty Gas is reasonably forecast to change by five (5) percent or more due to changes in operations, production levels, or other factors. An Annual Nomination made under this Section is subject to all constraints in Section 3.1.5.

(f) An Annual Nomination (or Maximum Quantity) of zero terminates this Agreement when all of Buyer's Royalty Gas has been delivered.

(g) The Maximum Quantity shall be automatically reduced to the Annual Nomination in effect on the New Gas Day.

3.1.6 No Guarantee of Quantity. The State shall exercise its royalty-in-kind rights under the Leases to request the Buyer's Royalty Gas sold under this Agreement. The State can deliver Buyer's Royalty Gas only to the extent it receives Buyer's Royalty Gas from the Lessees. The quantity of Total Royalty Gas available to the State may vary and may be

interrupted from time to time depending on a variety of factors, including the rate of production from the Leases and Units. The State disclaims and Buyer waives any guarantee, representation, or warranty, either express or implied, that a specific quantity of the total, daily, monthly, average or aggregate Buyer's Royalty Gas will be delivered to Buyer under this Agreement.

3.1.7 Other Terms and Conditions of the Options.

(a) An option payment of one million dollars (\$1,000,000) is due within five (5) Business Days of the Effective Date of this Agreement.

(b) The first five-year Option Period begins on the In-Service Date. Buyer must specify the Maximum Quantity for the first Option Period as required by Sections 3.1.3 and 3.1.4.

(c) Each later option must be exercised at least fourteen (14) Months prior to the expiration of the Option Period then in effect.

(d) Each later option may be exercised by giving Notice to the State and simultaneously paying an option fee of one million dollars (\$1,000,000).

(e) The Maximum Quantity for any Option Period may not be greater than the Maximum Quantity for any prior Option Period. For any Option Period which begins on or after the New Gas Day, the Maximum Quantity cannot be greater than the Annual Nomination in effect on the New Gas Day. The Maximum Quantity is also subject to the constraint of Section 3.1.5.

(f) If an option is not exercised or the option fee is not paid when due, the Agreement terminates at the end of the Option Period then in effect.

3.1.8 Source of Buyer's Royalty Gas. The State will deliver the quantities nominated by Buyer first from the Prudhoe Bay Unit and, if adequate Buyer's Royalty Gas is not available from the Prudhoe Bay Unit, then from the Point Thomson Unit, subject to the following rules and conditions:

(a) The State reserves for later sale, taking in-value, or any other use ten percent (10%) of the Total Royalty Gas produced each Month from each of the Units ("Reserved Gas"). Reserved Gas shall not be available to supply quantities nominated by Buyer.

(b) If the quantity of Total Royalty Gas sold under this Agreement and any other agreements exceeds ninety percent (90%) of the portion of the Total Royalty Gas produced each Month from the Prudhoe Bay Unit, the quantities nominated by Buyer shall be taken pro rata from the Prudhoe Bay Unit based on the ratio of Buyer's nominated quantities for the Month to total quantities nominated by all royalty in-kind buyers for the Month. For example, assume (1) combined Gas production from both Units is 4,000 MMcf per Day, with attributable Total Royalty Gas of 500 MMcf per Day ($4,000 \times 12.50\%$), (2) that the Prudhoe Bay Unit produces 2,000 MMcf per Day of Gas in a given Month, with attributable Total Royalty Gas of 250 MMcf per Day ($2,000 \times 12.50\%$), (3) that Buyer's Annual Nomination for that Month is 35 percent or 175 MMcf per Day, and (4) that all other royalty in-kind buyers under other agreements have nominations which total 250 MMcf per Day. After the State's reservation of ten percent ($25 = 250 \times 10\%$), 225 MMcf per Day ($250 - 25$) are available from the Prudhoe Bay Unit. Nominations total 425 MMcf per Day ($175 + 250$). Buyer would therefore receive from the Prudhoe Bay Unit $175/425 \times 225 = 92.647$ MMcf per Day, and the balance (82.353 MMcf

per Day) from the Point Thomson Unit.

(c) The State will, at Buyer's request, provide within thirty (30) Days its best estimate of field, processing, and conditioning costs for each Unit, but shall have no liability for an inaccurate estimate.

3.1.9 State's Warranty of Title. The State warrants that it has good and marketable title to the Buyer's Royalty Gas delivered and sold under this Agreement.

3.1.10 Sales to Third Parties. Subject to Buyer's rights under this Agreement, the State may sell to third parties any of the Total Royalty Gas.

3.1.11 Additional Information to Be Shared.

(a) At Buyer's request, the State will meet with Buyer to discuss changes that have occurred or will occur in the quality, quantity, or terms of the Buyer's Royalty Gas which will be delivered to Buyer. The discussions may include, without limitation, production volumes, production allocations to each Unit, the Point of Delivery, changes in field, conditioning, or processing costs, contracts to sell Gas to third parties, the status of claims against third parties which may affect the Price, and changes in quantities of Gas sold to third parties.

(b) If the State makes a claim against a Lessee for additional royalties which could cause an adjustment in the Base Price, the State will give Notice to Buyer of the amount of the claim per MMBtu and the Months to which the claim is applicable. Failure of the State to give Notice of the claim does not relieve Buyer of the obligation to pay any adjustment based on the claim.

3.2 Quality.

3.2.1 Quality of Buyer's Royalty Gas. The Buyer's Royalty Gas sold under this Agreement from each Unit shall be of the same quality as that portion of the Total Royalty Gas produced from each Unit. The quality of the Buyer's Royalty Gas may vary from time to time. Subject to Section 3.10, the State disclaims, and Buyer waives as against the State (but not third parties), any guarantee, representation, or warranty, either expressed or implied, of merchantability, fitness for use, or suitability for any particular use or purpose, or otherwise, and of any specific, average, or overall quality or characteristic of Buyer's Royalty Gas delivered under this Agreement. Buyer specifically waives any claim that any hydrocarbons delivered with the Buyer's Royalty Gas are not Buyer's Royalty Gas for purposes of this Agreement.

3.3 Price of Buyer's Royalty Gas. The Buyer shall pay the State a Buyer's Royalty Gas price ("Price") for Buyer's Royalty Gas. The Price shall equal the Base Price plus the Price Premium.

3.3.1 Base Price. Each Month the Base Price shall be the Royalty Value per MMBtu for Gas taken from each Unit. The fundamental principle for determining Royalty Value is that the Base Price shall not be less than the price the State is entitled to receive for that portion of Total Royalty Gas which the State takes in-value. Stated another way, the Base Price is the price at which the State is economically indifferent between taking in-kind and taking in-value because the State's general fund will not be affected by the choice. This principle shall be applied when interpreting this Section. The Royalty Value for each Unit each Month shall be the volume-weighted average of the amounts per MMBtu payable in royalty that Month on Total

Royalty Gas not taken in-kind, plus any conditioning, processing or field costs incurred by the State on the Buyer's Royalty Gas which would not have been incurred if the Buyer's Royalty Gas had been taken in value. If NGLs are separated from that portion of Total Royalty Gas not taken in-kind downstream of the Point of Delivery, the volume weighted Royalty Value of those NGLs shall be included in the determination of Royalty Value when the Base Price is calculated.

3.3.2 Price Premium. During the first Option Period (*i.e.*, the five-year period beginning on the In-Service Date), the Price Premium shall be \$0.02 per MMBtu for each MMBtu purchased under this Agreement. The Price Premium shall increase by \$0.02 per MMBtu for each later Option Period. For example, the Price Premium during a third Option Period would be \$0.06 per MMBtu. The Price Premium shall be added to the Base Price to determine the Price.

3.3.3 Minimum Price. The Price shall not in any Month be less than the Price Premium.

3.3.4 Normalization. If for any reason Royalty Value is based on Gas which is not of the same quality as Buyer's Royalty Gas, appropriate adjustments (which may include adjustments for conditioning, processing, or field costs) will be made to ensure that the Base Price is comparable to the Royalty Value under the principles in Section 3.3.1.

3.4 Reservation Fee. If, in any Month, Buyer does not nominate the Maximum Quantity ("MQ") in effect for that Month, Buyer shall pay, in addition to the Price, a reservation fee computed as set forth below:

- (i) An amount equal to: (A) the difference between the equivalent value of

the Maximum Quantity expressed in MMBtus per day, as estimated on the date the Maximum Quantity was nominated (“MQE”) and the equivalent value of the Annual Nomination expressed in MMBtus per day, as estimated at the time the Annual Nomination was established (“ANE”); times (B) the Price Premium (“PP”) for that Month; and (C) times the number of Days in that Month (“MDays”).

$$(MQE - ANE) \times PP \times MDays$$

(ii) The Reservation Fee amount in (i) above shall be reduced by: (A) the mathematical absolute value of the difference between the ANE and the actual quantity delivered for the Month (“AQ”), also expressed in MMBtus per day; times (B) the Price Premium for that Month; and times (C) the number of MDays.

$$ANE - AQ \times PP \times MDays$$

(iii) Each time an Annual Nomination or Maximum Quantity is specified by Buyer (or by operation of the Agreement), Buyer must also specify the MQE and the ANE.

(iv) Notwithstanding the above, in no event shall the Reservation Fee be less than zero.

3.5 Current and Future Agreements, and Arbitration and Litigation Results Between the State and the Lessees.

3.5.1 Non-Intervention. In its status as Buyer, the Buyer shall not intervene or otherwise participate in any way in any discussions, negotiations, agreements, settlements, reopeners, audits, arbitration, or litigation between the State and Lessees pertaining to royalty or Royalty Value for the Units, nor shall the Buyer have any independent right to invoke any

provision of any agreement between the State and Lessees.

3.5.2 Binding Effect. In its status as Buyer, the Buyer agrees to be conclusively bound by the terms of any agreements, settlements, reopeners, audits, arbitration, or litigation between the State and Lessees pertaining to royalty or Royalty Value for the Units, regardless of whether the Buyer agrees with or consents to the agreements, settlements, reopeners, audits, arbitration, or litigation.

3.5.3 Reservation of Rights. Except as specifically set forth in Sections 3.5.1 and 3.5.2, Buyer reserves all its other rights arising in any other manner, including, without limitation, any and all of its rights as a lessee under State oil and gas leases.

3.6 Delivery of Buyer's Royalty Gas.

3.6.1 Day of First Delivery. The State will make its first delivery of Buyer's Royalty Gas to Buyer at the Point of Delivery immediately upon the State's first receipt of Buyer's Royalty Gas from the Lessees, but not before the In-Service Date.

3.6.2 Later Deliveries. After the first delivery, the State shall tender Buyer's Royalty Gas to Buyer at the Point of Delivery immediately upon receipt of the Buyer's Royalty Gas from the Lessees.

3.7 Passage of Title and Risk of Loss. Title to, and risk of loss of, the Buyer's Royalty Gas shall pass from the State to Buyer for all purposes when the State tenders the Buyer's Royalty Gas to Buyer at the Point of Delivery. Buyer shall bear all risk and responsibility for the Buyer's Royalty Gas after passage of title.

3.8 Indemnification After Passage of Title. Buyer shall indemnify and hold the State

harmless from and against any and all claims, costs, damages (including reasonably foreseeable consequential damages), expenses, or causes of action arising from or related to any transaction or event in any way related to the Buyer's Royalty Gas after title has passed to Buyer.

3.9 Transportation Arrangements. Buyer shall make all arrangements for, and bear all costs of, transportation of the Buyer's Royalty Gas from the Point of Delivery to, through, and away from the Gas Pipeline, and shall be responsible for meeting any requirements imposed by the Gas Pipeline or any other pipeline downstream of the Point of Delivery used to transport the Buyer's Royalty Gas purchased under this Agreement. On the State's request, Buyer shall provide the State with (1) evidence of the arrangements for transportation of the Buyer's Royalty Gas from the Point of Delivery, to, through, and away from the Gas Pipeline; (2) evidence of arrangements for the treating, conditioning, or processing of the Buyer's Royalty Gas; and (3) information on specific deliveries of Buyer's Royalty Gas by Buyer to the Gas Pipeline. Buyer's failure to provide information, evidence, or assurances requested by the State shall, at the State's election and after Notice to Buyer, constitute a material default under this Agreement.

3.10 State Assistance. The Parties do not know where the Point of Delivery will be. If the Point of Delivery is upstream of the Gas Pipeline entry flange, at the request and expense of Buyer, the State shall exercise whatever rights it has under the 1980 FCSA (a copy of which was provided to Buyer), the Leases, the Unit Agreement, statutes, and regulations (i) to help Buyer obtain transportation and, if necessary, conditioning and processing, from the Point of Delivery to the entry flange of the Gas Pipeline, or (ii) to ensure that Buyer's Royalty Gas is of the quality required by all applicable agreements. This Section does not require that the State litigate.

3.11 Termination on Finding Adequate Gas. If Buyer discovers and develops gas in the Foothills in sufficient quantities to adequately satisfy its Firm Transportation Contract, it shall promptly notify the State and take all action reasonably necessary to reduce the Maximum Quantity and Annual Nomination to zero.

ARTICLE IV INVOICING AND PAYMENT

4.1 Production Month Invoices. On or before the tenth Day of each Month after the first Month of delivery of Buyer's Royalty Gas, the State shall send to Buyer a statement of account with an invoice for the total amount due for any reservation fee and for the estimated quantity of Buyer's Royalty Gas delivered to Buyer during the immediately preceding Month and the estimated Price applicable to those deliveries. The State will base its estimates on the best information reasonably available to the State. The State shall adjust production month invoices as provided in Section 4.3 and Section 4.6.

4.2 Payment of Production Month Invoices. Buyer shall pay the total amount of each production month invoice, in full, on or before the twenty-fifth Day of the Month in which the invoice is sent. Any amount not paid in full on or before the twenty-fifth Day of the Month shall accrue interest as provided in Section 4.8, and become subject to the late payment provisions of Section 4.10, and any other remedies available to the State under this Agreement or at law.

4.3 Adjustments. Buyer acknowledges that any time after a production month invoice is sent, the State may receive more accurate information concerning the actual quantity, quality, and Price for Buyer's Royalty Gas delivered to Buyer. That information includes, without

limitation, amended royalty returns from Lessees, information from audits, results of litigation or arbitration, and results from tariff proceedings. Buyer agrees that any time such information becomes available to the State, the State shall make adjustments to the preceding invoice(s), and invoice Buyer. The State shall invoice Buyer on a production month invoice for the adjustments, plus interest as provided in Section 4.8, as promptly as reasonably possible.

Buyer should expect adjustments to be made over a period of many years and to increase the Price for Buyer's Royalty Gas. The State's right to an adjustment accrues any time that it has made a final determination of Royalty Value sufficient to invoice for an adjustment. Buyer recognizes that there may be more than one adjustment to any production Month.

4.4 Initial Adjustments. Any adjustment made to an invoice issued during the immediately preceding month is an initial adjustment.

4.5 Payment of Initial Adjustments. Buyer shall pay the total amount of each initial adjustment invoice, plus interest as provided in Section 4.8, in full, on or before the twenty-fifth (25th) Day of the Month in which the invoice is sent. If an adjustment is due to Buyer for an overpayment, the State shall credit or refund to Buyer the amount of the overpayment, plus interest as provided in Section 4.8, on or before the twenty-fifth (25th) Day of the Month in which the invoice is sent. Any amount Buyer does not pay in full when due shall bear interest at the rate provided in Section 4.8 and become subject to the late payment provisions of Section 4.10, and any other remedies available to the State under this Agreement or at law.

4.6 Subsequent Adjustments. Any adjustment made to an invoice issued prior to the immediately preceding month is a subsequent adjustment.

4.7 Payment of Subsequent Adjustments. Buyer shall pay in full the total amount of each subsequent adjustment invoice, plus interest as provided in Section 4.8, on or before the thirtieth (30th) Day after the date the invoice is sent. If an adjustment is due to Buyer for an overpayment, the State shall credit or refund to Buyer the amount of the overpayment, plus interest as provided in Section 4.8, on or before the thirtieth (30th) Day after the date the invoice is sent. Any amount Buyer does not pay in full when due shall bear interest as provided in Section 4.8 and become subject to the late payment provisions of Section 4.10, and any other remedies available to the State under this Agreement or at law.

4.8 Interest. (a) All amounts Buyer does not pay in full when due under this Agreement shall bear interest from the date due until paid in full at the Rate. All amounts invoiced as adjustments for underpayments and overpayments for Buyer's Royalty Gas delivered to Buyer, shall bear interest from the date accrued until the date payment is due at the Rate.

(b) Rate means the sum of the rate in (i) AS 38.05.135(d), and (ii) the Bank of America prime rate, plus 1.25 percentage points, all divided by two (2).

(c) In this Agreement, "date accrued" means the twenty-fifth (25th) Day of the Month of the first statement of account that contains the production month invoice to which the initial or subsequent adjustment applies.

4.9 Adjustments After Termination. Buyer acknowledges that the State may continue to make adjustments after termination of this Agreement, and agrees that the provisions of Articles IV, VI, and IX shall survive termination of this Agreement for any reason. Any adjustments made after termination must be paid within thirty (30) Days after the invoice is

received.

4.10 Late Payment Penalty. In addition to all other remedies available to the State, if Buyer fails to make timely payment in full of any amount due, Buyer shall pay the State as a late payment penalty an amount equal to five percent of the amount, including interest, not timely paid, in addition to the amount, including interest, not paid when due.

4.11 Disputed Payments. If a dispute arises concerning the amount of an invoice, Buyer agrees to pay the full amount of the invoice when due pending final resolution of the dispute.

4.12 Confidential Information. The State and Buyer agree that the State may invoice Buyer for, and Buyer agrees to pay, amounts that are based upon confidential information held or received by the State. If confidential information is used as the basis for an invoice, upon receipt of a written request from Buyer, the State shall furnish to Buyer a certified statement of the Commissioner that, based upon the best information available to the State, the invoiced amounts are correct. At the request and expense of Buyer, the Commissioner's certified statement will be based on an audit by an independent third party unless the State is prohibited by statute or otherwise from giving the data to the independent third party.

4.13 Manner of Payment. Buyer shall pay all invoices in full within the times specified and without any deduction, set off, or withholding. Buyer shall pay all invoices by either Automated Clearinghouse or by Federal Reserve Wire Transfer (immediate funds available) procedure to the following State account and address:

State Street Bank & Trust Company
Boston, Massachusetts

ABA No. [REDACTED]
For Credit to the State of Alaska
General Investment Fund – AY01
Attn: Kim Chan, Public Funds
Account No. [REDACTED] (Federal Reserve Wire Transfer)
Account No. [REDACTED] (Automated Clearinghouse)

Buyer shall pay an invoice in any other manner or to any other address the State has specified in an invoice or by written Notice. All other payments due shall be paid in the same manner and according to the same time schedule provided in this Article. If payment falls due on a Saturday, Sunday, or legal federal holiday, payment shall be made on the next Business Day.

4.14 Invoice Delays. If Buyer does not receive a production month invoice by the tenth (10th) Day of the Month, the due date shall be delayed one Day for each Day the invoice was delayed. For example, a production month invoice received on the twelfth (12th) Day of the Month would be payable on the twenty-seventh (27th) Day of the Month.

4.15 Electronic Invoices. The State may send invoices electronically. Buyer shall accept and pay based on electronic invoices.

ARTICLE V

BUYER'S REPRESENTATIONS AND OBLIGATIONS

5.1 Good Standing and Due Authorization. Buyer warrants that it is, and shall remain at all times during the term of this Agreement: (1) a corporation organized and existing under the laws of the United States or of a state, territory, or the District of Columbia; (2) qualified to do business in Alaska; and (3) in good standing with the State. Buyer warrants that it has all

corporate power and authority necessary, and has performed all corporate action required, to enter into and fulfill its obligations under this Agreement.

5.2 Financial Statements. Beginning with the fiscal Year in which Buyer executes a Firm Transportation Contract, and within one hundred fifty (150) Days after the end of each fiscal Year, Buyer or, if Buyer is more than one Person, by each Person comprising Buyer shall, at its own cost and expense, submit to the State the following documents prepared in accordance with United States or Canadian generally accepted accounting principles: a complete year-to-year comparative, independently audited balance sheet; income statement; and cash flow statement. If Buyer or Buyer's parent is a publicly traded company in the United States required to file reports with the United States Securities and Exchange Commission, the requirement for filing an independently audited financial report may be satisfied by Buyer or Buyer's parent submitting all reports filed with the Securities and Exchange Commission at or shortly after filing. By giving Notice to Buyer, from time to time the State may request submission of additional financial information normally prepared in the ordinary course of business by Buyer or, if Buyer is more than one Person, by each Person comprising Buyer. At Buyer's written request, the State will treat documents listed above as confidential, subject to Section 22.2 and the following limitations:

- i. any confidential documents in the financial report must be boldly stamped "CONFIDENTIAL";
- ii. no document may be designated confidential if it, or the information in it, is or will be public; and

iii. the State must not be prohibited by statute or otherwise from treating the document as confidential, provided that the State shall take any available precautions to ensure that the information or documentation is treated as confidential.

5.3 Financial Condition. Buyer warrants: (1) that all financial information submitted to the State under Section 5.2 is complete, accurate, and fairly represents Buyer's financial position at the time of preparation and submission; and (2) that there has been no material change in Buyer's financial condition, business operations, or properties since it prepared and submitted the financial information to the State. Buyer warrants that the financial information was prepared in accordance with generally accepted accounting principles. Buyer shall immediately inform the State of any material change in its ownership, ownership of parent companies, or Affiliates' financial condition, business operations, agreements, or property that is likely to affect its ability to perform its obligations under this Agreement.

ARTICLE VI **ASSURANCE OF PERFORMANCE**

6.1 Letter of Credit. Seven months before the Day of First Delivery, Buyer shall deliver to the State an irrevocable stand-by letter of credit (the "Letter"). The Letter shall be in a form satisfactory to the Commissioner and shall be in effect as of the Day of First Delivery. It shall be issued for the benefit of the State by a state or national banking institution of the United States that is insured by the Federal Deposit Insurance Corporation and has an aggregate capital and surplus amount of not less than One Hundred Million Dollars (\$100,000,000) ("Issuer"), or other banking institution acceptable to the Commissioner. The principal face amount of the

Letter shall be an amount reasonably estimated by the Commissioner to be equal to the Price of all Buyer's Royalty Gas to be delivered by the State to Buyer during the 180 Days immediately following the Day of First Delivery. The Letter shall not require the State to submit any documentation in support of drafts drawn against it other than a certified statement by the Commissioner and the State's Attorney General that Buyer is liable to the State for an amount of money equal to the amount of the draft, that the amount of money is due and payable in full, and it has not been timely paid.

The Letter shall provide that the State has the right to draw and present drafts to the Issuer through three months after the State's last delivery of Buyer's Royalty Gas to Buyer under this Agreement. The State shall provide prior Notice of any claim against the Letter. The Letter shall be in effect continuously from the Day of First Delivery through three months after the date of the State's last delivery of Buyer's Royalty Gas to Buyer. If the Letter is not in effect for any reason, (1) Buyer shall be deemed to have materially breached this Agreement; (2) a default under Article IX will have occurred; and (3) all Buyer's obligations, expenses, and liabilities accrued as of that date, whether yet due and payable, shall become immediately due and payable in full.

If the State asserts a claim or claims that equal a total amount of money greater than the principal face amount of the Letter in effect, Buyer shall, upon the State's request, cause the principal face amount of the Letter to be increased by an amount sufficient to secure the total amount of the State's claims. Buyer is subject to this obligation even if Buyer denies, rejects, or otherwise contests the State's claims.

If the principal face amount of the effective letter of credit is ever less than the estimated price of 180 Days of Buyer's Royalty Gas deliveries, Buyer shall automatically and immediately cause the principal face amount of the effective Letter to be increased to an amount equal to the reasonably estimated Price of 180 Days delivery of Buyer's Royalty Gas. If the principal face amount of the effective Letter is greater than the reasonably estimated Price of 180 Days delivery of Buyer's Royalty Gas, upon written approval of the Commissioner, in the Commissioner's sole discretion, Buyer may decrease the principal face amount of the Letter to an amount equal to the reasonably estimated Price of 180 Days delivery of Buyer's Royalty Gas.

6.2 Surety Bond. In the Commissioner's sole discretion, Buyer may provide, in place of a letter of credit, a Surety Bond ("Bond") on the terms shown in Section 6.2.1.

6.2.1 Form of Bond. Buyer shall deliver to the State a Bond. The Bond shall be in a form satisfactory to the Commissioner and shall be in effect by the Day of First Delivery. It shall be issued for the benefit of the State by a surety company or companies reasonably acceptable to the State and which is authorized and admitted to do business in the state of Alaska, approved by the United States Department of the Treasury, listed in the Federal Register, and licensed by the State to execute bonds as surety. The principal amount of the Bond shall be an amount reasonably estimated by the Commissioner to be equal to the Price of all Buyer's Royalty Gas to be delivered by the State to Buyer during the 180 Days immediately following the Day of First Delivery. The Bond shall not require the State to submit any documentation in support of claims made against it other than a certified statement by the Commissioner and the State's Attorney General that Buyer is liable to the State for an amount of money equal to the

amount of the claim, that the amount of money is due and payable in full, and it has not been timely paid.

The Bond shall provide that the State has the right to make claims against the Bond through three months after the State's last delivery of Buyer's Royalty Gas to Buyer under this Agreement. The Bond shall be in effect continuously from the Day of First Delivery through three months after the date of the State's last delivery of Buyer's Royalty Gas to Buyer. If the Bond is not in effect for any reason, (1) Buyer shall be deemed to have materially breached this Agreement; (2) a default under Article IX will have occurred; and (3) all Buyer's obligations, expenses, and liabilities accrued as of that date, whether yet due and payable, shall become immediately due and payable in full.

If the State asserts a claim or claims that equal a total amount of money greater than the principal face amount of the Bond in effect, Buyer shall, upon the State's request, cause the principal face amount of the Bond to be increased by an amount sufficient to secure the total amount of the State's claims. Buyer is subject to this obligation even if Buyer denies, rejects, or otherwise contests the State's claims.

If the principal face amount of the effective Bond is ever less than the estimated price of 180 Days of Buyer's Royalty Gas deliveries, Buyer shall automatically and immediately cause the principal face amount of the effective Bond to be increased to an amount equal to the estimated price of 180 Days delivery of Buyer's Royalty Gas. If the principal face amount of the effective Bond is greater than the estimated price of 180 Days delivery of Buyer's Royalty Gas, upon written approval of the Commissioner, in the Commissioner's sole discretion, Buyer may

decrease the principal face amount of the Bond to an amount equal to the estimated price of 180 Days delivery of Buyer's Royalty Gas.

6.2.2 No Obligation. This Section 6.2 does not obligate the State or the Commissioner to accept a Bond if one is proposed or offered by Buyer.

6.3 Other Performance Assurance. The Commissioner may require that, after Termination, the Letter be maintained in an amount estimated by the Commissioner to be equal to the value of all adjustments, including interest, which may be made under Article IV. Alternatively, the Commissioner may require that an interest-bearing escrow account be established in the same amount on payment and other commercial terms acceptable to Buyer.

6.4 Correction of Defects in Letter. Buyer shall have five (5) Business Days to correct any defect in the Letter (or Bond, if a Bond is accepted by the Commissioner) beginning with the Business Day Buyer first learns of the defect whether through Notice from the State or otherwise. A defect is any failure to comply with the terms and conditions of Article VI.

ARTICLE VII MEASUREMENTS

7.1 Measurements. Procedures used for metering and measuring the Buyer's Royalty Gas shall be in accordance with the procedures in effect in the Units.

ARTICLE VIII EFFECTIVE DATE AND TERM

8.1 Approval. This Agreement is subject to approval under Alaska Statute 38.06.055. If the Agreement has not been approved under AS 38.06.055 by May 31, 2003, or if an Open

Season for the Gas Pipeline is not completed by March 31, 2005, or if Buyer has not obtained a Firm Transportation Contract by March 31, 2005, either Party may terminate this Agreement on thirty (30) Days Notice. If legislative or regulatory actions materially hinder Buyer's performance or the economic feasibility of this Agreement, Buyer may terminate this Agreement by March 31, 2005.

8.2 Effective Date. This Agreement shall be effective when it is signed by all parties and approved under AS 38.06.055 ("Effective Date").

8.3 Term. Unless terminated earlier under the Agreement, the term of this Agreement shall be the period from the Effective Date until the In-Service Date and shall continue so long as any Option Period is in effect but for no longer than the term of Firm Transportation Contract.

Termination of this Agreement shall not relieve either Party from any expense, liability, or other obligation or any remedy that has accrued or attached prior to the date of termination. For Buyer's Royalty Gas actually delivered under this Agreement, termination of this Agreement shall not relieve Buyer of its obligation to pay all production month invoices, initial adjustments, subsequent adjustments, and interest, and, where applicable, penalties, costs, attorney fees, and any other charges related to the Buyer's Royalty Gas actually delivered. The provisions of Article IV, VI, and IX shall survive termination of this Agreement.

8.4 No Delivery of Buyer's Royalty Gas. This Agreement shall terminate on July 31, 2012 if the Gas Pipeline is not in service by that date or if no Buyer's Royalty Gas has been delivered by that date.

8.5 Refund. If this Agreement is terminated under Section 8.1 or Section 8.4, the

State shall return to the Buyer the Bonus Payment and first option payment paid by the Buyer, without interest.

ARTICLE IX
DEFAULT OR TERMINATION

9.1 Default.

9.1.1 Events of Default. The Commissioner may, in the Commissioner's sole discretion, suspend or terminate the State's obligation to tender, deliver, and sell Buyer's Royalty Gas to Buyer, and may exercise any one or more of the rights and remedies provided in this Agreement, or at law, if any one or more of the following Events of Default occur:

(i) Buyer fails to pay in full any sum of money owed under this Agreement within five (5) Business Days after the State gives Buyer Notice that payment is past due;

(ii) Within five (5) Business Days after Notice from the State, Buyer fails to provide written assurances satisfactory to the State of its intention to perform its obligations under this Agreement and evidence or assurances of transportation arrangements under Article 3.9;

(iii) There is a material change in Buyer's financial condition, business operations, agreements, or property or ownership that is likely to affect Buyer's ability to perform its obligations under this Agreement, and within five (5) Business Days after Notice from the State, Buyer is unable or unwilling to provide the State with adequate assurance of continued performance;

(iv) Buyer fails to perform any of its obligations under this Agreement, and cannot cure the non-performance or the non-performance continues for more than thirty (30)

Days after the State has given Notice to Buyer of its non-performance;

(v) Any representation or warranty made by Buyer in this Agreement is found to have been materially false or incorrect when made; or

(vi) Buyer fails, or is unable for any reason (including reasons beyond Buyer's control), to maintain the Letter required under Article VI, regardless of Buyer's willingness or ability to perform any other obligations under this Agreement.

9.1.2 Default by Inability to Pay. Buyer shall immediately provide the State with Notice if Buyer is unable to pay any of its debts when due, makes an arrangement for the benefit of creditors, files a bankruptcy petition, or is otherwise insolvent. Upon Notice from Buyer, or if the State independently determines that Buyer is unable to pay any of its debts when due or is otherwise insolvent, the State's obligations to deliver and sell Buyer's Royalty Gas to Buyer shall automatically and immediately terminate without any requirement of Notice to Buyer or other action by the State. Within thirty (30) Days after termination under this Article 9.1.2, the State shall have the right, upon consent of Buyer, to reinstate all of the State's and Buyer's obligations under this Agreement retroactive to the date of termination.

9.2 State's Remedies. If Buyer defaults under this Agreement, in addition to all other remedies available to the State under this Agreement or at law, the following remedies shall be available to the State in the Commissioner's sole discretion:

9.2.1 Buyer's Obligations Become Due. All monetary obligations Buyer has accrued under this Agreement, even if not yet due and payable, shall immediately be due and payable in full.

9.2.2 State May Dispose of Buyer's Royalty Gas. The State may dispose of some or all of the Buyer's Royalty Gas to third parties. If the State exercises this remedy,

regardless of whether this Agreement is terminated, Buyer shall be and remain liable to the State for the amount of the difference between the Price for the Buyer's Royalty Gas under Article III and the actual price the State receives from disposition of the Buyer's Royalty Gas to third parties for a period not to exceed twelve (12) Months from the occurrence of the Event of Default giving rise to this remedy.

9.2.3 Indemnification for Loss. Buyer shall hold the State harmless and indemnify it against all its liability, damages, expenses, attorney's fees and costs, and losses directly arising out of Buyer's default, termination of the State's obligations, and disposal of the Buyer's Royalty Gas to third parties. Additionally, if Buyer defaults in the payment of the Price, Buyer shall pay the State 100 percent of reasonable actual costs and attorney fees incurred by the State in pursuing payment of the Price, regardless of whether litigation is commenced and regardless of whether legal services are provided by the Attorney General's office or private counsel.

9.2.4 Other Rights and Remedies. The State shall have the right cumulatively to exercise all rights and remedies provided in this Agreement and by law, and obtain all other relief available under law or at equity, including mandatory injunction and specific performance, except that Buyer's Special Commitments shall not be subject to specific performance.

9.3 Limitation of Buyer's Remedies. If the Buyer breaches or defaults in any of its obligations under this Agreement, Buyer shall not obtain a temporary restraining order or preliminary injunction preventing the State from disposing of the Buyer's Royalty Gas in accordance with Section 9.2.2.

9.4 Article Survives Termination. This Article survives termination of the Agreement.

ARTICLE X
DISPOSITION OF BUYER'S ROYALTY GAS UPON DEFAULT OR TERMINATION

10.1 Disposition of Buyer's Royalty Gas Upon Default or Termination. Buyer acknowledges that the State may be required to provide six Months notice to the Lessees before the State may decrease its in-kind Nomination of Buyer's Royalty Gas in any Month. It is within the Commissioner's sole discretion to request a waiver of any notice provision, condition, or requirement of a Lease, Unit Agreement, settlement agreement or other agreement. If this Agreement terminates for default or any other reason, Buyer shall continue to accept and pay for Buyer's Royalty Gas through the first Day of the Month following expiration of six months after the date of termination, if the Commissioner, in the Commissioner's sole discretion, so requires.

10.2 Inability to Receive Buyer's Royalty Gas. If Buyer is unable, due to events within Buyer's control, or refuses to accept or receive Buyer's Royalty Gas, Buyer shall nevertheless remain liable for disposal and payment for Buyer's Royalty Gas as though it had been accepted by Buyer. The Commissioner may, in the Commissioner's sole discretion, waive this requirement.

10.3 Disposal of Buyer's Royalty Gas. If Buyer defaults and upon the Commissioner's request, Buyer shall take all action necessary to permit the State or its designee to use temporarily all or part of Buyer's service under its Firm Transportation Contract or any other arrangements necessary for transportation of Buyer's Royalty Gas to, through, and away from the Gas Pipeline, whether such interests are under nominations, leases, contracts, tariffs, or other agreements. The State shall relinquish its use of the transportation arrangements to Buyer within

twelve (12) Months of the first use or, if earlier, when the State has successfully disposed of all Buyer's Royalty Gas. The State shall not incur liability or obligations unless the State actually exercises its rights under this Section.

ARTICLE XI
NON-WAIVER

11.1 Non-Waiver. The failure of either party to insist upon strict or a certain performance, or acceptance by either party of a certain performance or course of performance under this Agreement shall not: (1) constitute a waiver or estoppel of the right to require certain performance or claim breach by similar performance in the future; (2) affect the right of either party to enforce any provision; or (3) affect the validity of any part of this Agreement.

ARTICLE XII
DISPUTE RESOLUTION

12.1 Dispute Resolution. Any disagreement or dispute about the meaning or application of a word, term, or condition, or about a right or obligation in this Agreement shall be decided according to the dispute resolution procedure set forth in this Article. The procedure set forth in this Article shall be initiated by either party providing written notice of the disagreement or dispute to the other party. No later than sixty Days after either party provides written notice, Buyer and the State shall each present any arguments and evidence supporting their views of the disputed term or condition in writing to the Commissioner for consideration. Buyer shall not have the right to civil litigation-type discovery or a civil litigation-type trial with the right to call or cross-examine witnesses unless granted by the Commissioner, after request. Within thirty

Days after both parties submit their arguments and evidence, the Commissioner shall issue a finding interpreting the meaning or application of the disputed word, term, or condition, and shall set forth the basis for the conclusions. Buyer agrees to accept findings of the Commissioner under this Article that are reasonable and not arbitrary.

ARTICLE XIII **SEVERABILITY**

13.1 Severability. If a court decrees any provision of this Agreement to be invalid, all other provisions of this Agreement shall remain valid. If, however, invalidation of a provision impairs a material right or remedy under this Agreement, the Parties will negotiate in good faith to maintain the original intent and benefits of this Agreement. If the Parties cannot restore the original intent and benefits of this Agreement, then either Party may terminate this Agreement by giving Notice.

ARTICLE XIV **FORCE MAJEURE**

14.1 Effect of Force Majeure. Except for Buyer's obligations to pay amounts due, provide assurance of performance in accordance with Article VI, and to accept, dispose of, and pay for Buyer's Royalty Gas, neither Party shall be liable for failure to perform if performance is substantially prevented by Force Majeure after good faith efforts to perform.

14.2 Force Majeure Event. The term "Force Majeure" means an event or condition not within the reasonable control of the Party claiming "Force Majeure." Force Majeure Events include, but are not limited to, the following events:

- i. act of God, fire, lightning, landslide, earthquake, storm, hurricane, hurricane warning, flood, high water, washout, explosion, or well blowout;
- ii. strike, lockout, or other industrial disturbance, act of the public enemy, war, military operation, blockade, insurrection, riot, epidemic, arrest or restraint by government of people, terrorist act, civil disturbance, or national emergency;
- iii. the inability of the affected Party to acquire, or the delay on the part of the affected Party in acquiring materials, supplies, machinery, equipment, servitudes, right-of-way grants, easements, permits or licenses, approvals, or authorizations by regulatory bodies or oil and gas lessors needed to enable the Party to perform;
- iv. breakage of or accident to machinery, equipment, facilities, or lines of pipe, and the repair, maintenance, improvement, replacement, test, or alteration to the machinery, equipment, facilities, or lines of pipe, and the freezing of a well or line of pipe, well blowout, or the partial or entire failure of a Gas well; or
- v. act, order, or requisition of any governmental agency or acting governmental authority or any governmental proration, regulation, or priority.

14.3 Notice and Remedy of Force Majeure. If a Party believes that Force Majeure has occurred, the Party shall immediately notify the other Party of its claim of Force Majeure. Except for Buyer's obligations to pay amounts due, provide assurance of performance in accordance with Article VI, and accept, dispose of, and pay for Buyer's Royalty Gas, the disabled Party's obligations to perform that are affected by the Force Majeure shall be suspended from the time of notification to the other Party until the disability caused by the Force Majeure

should have been remedied with reasonable diligence. If Buyer is prevented by Force Majeure (other than a failure of the Gas Pipeline) from performing any material obligation for twenty-four (24) Months or more, the State, in the Commissioner's sole discretion, shall have the right to terminate this Agreement on sixty (60) Days Notice.

ARTICLE XV
NOTICES

15.1 Method. All notices, consents, requests, demands, instructions, approvals, and other communications permitted or required except invoices issued under Article IV ("Notice") shall be made in writing by two (2) of the following methods: (a) personally delivered, (b) delivered and confirmed by facsimile transmission, (c) delivered by Federal Express, DHL, or other reputable overnight courier delivery service, (d) e-mail, or (e) deposited in the United States mail, first class, postage prepaid, certified or registered, return receipt requested, addressed as follows:

State: State of Alaska
Commissioner of Natural Resources
400 Willoughby Avenue
Juneau, Alaska 99801

and Director, Division of Oil and Gas
550 West Seventh Avenue, Suite 800
Anchorage, Alaska 99501-3560
Telecopy No.: 907-269-8938

Buyer: _____

Telecopy No.: _____

or to any other place within the United States of America designated in writing. All notices given by personal delivery, overnight courier, or mail shall be effective on the date of actual receipt at the appropriate address. Notice given by facsimile shall be effective upon actual receipt if received during recipient's normal business hours or at the beginning of the next Business Day after receipt if received after the recipient's normal business hours.

15.2 Change of Address. Each party may notify the other of changes in its address by giving Notice.

ARTICLE XVI RULES AND REGULATIONS

16.1 Rules and Regulations. This Agreement is subject to all applicable laws of the State of Alaska, and orders, rules, and regulations of the United States, the State of Alaska, and any duly constituted agency of the State of Alaska.

ARTICLE XVII SOVEREIGN POWER OF THE STATE

17.1 Sovereign Power of the State. This Agreement shall not be interpreted to limit in any way the State's ability to exercise any sovereign or regulatory powers, whether conferred by constitution, statute, or regulation. The State's exercise of any sovereign or regulatory power shall not be deemed to enlarge any of Buyer's rights, or limit any of Buyer's obligations or liabilities under this Agreement.

ARTICLE XVIII APPLICABLE LAW

18.1 Governing Law. This Agreement, and all matters arising from or related to this Agreement, shall be governed, construed, and determined by the laws of the State of Alaska.

18.2 Jurisdiction. After exhaustion of the dispute resolution provisions in Article XII, any legal action or proceeding arising out of or related to this Agreement shall be brought in a state court of general jurisdiction sitting in the State of Alaska, and Buyer hereby irrevocably submits to the jurisdiction of that court in any action or proceeding.

ARTICLE XIX **WARRANTIES**

19.1 Warranties by State. The purchase and sale of Buyer's Royalty Gas under this Agreement are subject only to the warranties the State has expressly set forth in this Agreement. The State disclaims and Buyer waives all other warranties, express or implied in law.

ARTICLE XX **AMENDMENT**

20.1 Amendment. This Agreement may be supplemented, amended, or modified only by written instrument duly executed by the parties and, where required, approved under Alaska Statute 38.06.055.

ARTICLE XXI **SUCCESSORS AND ASSIGNS**

21.1 Assignments and Other Transfers. No Party may assign its obligations under this Agreement without first obtaining the written consent of the other Party, which consent shall not be unreasonably withheld or delayed. The Commissioner may consent on behalf of the State.

No consent shall be required: (1) if all or substantially all of the assets of a Party are acquired by another Person; (2) if all or substantially all of the Foothills area assets of a Party are transferred to a wholly-owned subsidiary or Affiliate of that Party; or (3) in the event of a merger, consolidation, or reorganization of a Party with another Person. In the event of an acquisition, asset transfer, merger, reorganization, stock transfer, corporate restructuring, or consolidation, the acquiring or surviving entity shall assume the obligations and benefits of this Agreement. Nothing in this Section shall in any way (i) prevent any Party from pledging or mortgaging its rights under this Agreement as security for its indebtedness, or (ii) release or obligate the State to release the Buyer from its obligations under this Agreement.

21.2 Binding on Successors. This Agreement shall be binding upon and inure to the benefit of the legal representatives, successors, and assigns of the Parties.

ARTICLE XXII **RECORDS**

22.1 Preservation of Records. Buyer shall maintain and preserve all books, accounts, and records that relate to or arise from performance of this Agreement for six years from the date of the transaction or date of the latest adjustment relating to the transaction, or for any longer period requested by the State if, in the State's sole discretion and opinion, the books, accounts, and records are relevant to a pending audit, arbitration, or litigation. Buyer shall also maintain and preserve all books, accounts, and records, in its possession or control, that belong to any third party with whom Buyer contracts for the performance of any part of this Agreement. Buyer and the State shall not be required to retain any records for more than six years from the time of a

transaction unless retention of such records is specifically required by applicable law or regulation, or this Agreement. Buyer shall maintain its records within the State or make the records available to the State at Buyer's principal office in the State within thirty (30) Days after written request by the State.

22.2 Inspection of Records. Buyer and the State shall each accord to the other and the other's authorized agents, attorneys, and auditors access during reasonable business hours to any and all property, records, books, documents, or indices related to Buyer's or the State's performance under this Agreement and which are under possession or control of the Party from which access is sought, so the other Party may inspect, photograph, and make copies of the property, records, books, documents, or indices. The State shall not be required to disclose any information, data, or records that is required by state or federal law or regulation, or by agreement with the Person supplying the record, to be held confidential. If information the State obtains from Buyer may be held confidential under state or federal law or regulation, Buyer must request in writing that the State hold the information confidential, and the State shall keep the information confidential to the extent and for the term provided by the applicable law or regulation.

ARTICLE XXIII
EMPLOYMENT OF ALASKA RESIDENTS

23.1 Employment of Alaska Residents. Buyer shall comply with all valid federal, state, and local laws in hiring Alaska residents and companies, and shall not discriminate against Alaska residents and companies. Within the constraints of law, Buyer voluntarily agrees to

employ Alaska residents and Alaska companies to the extent they are available, willing, and qualified for work performed in Alaska in connection with this Agreement. "Alaska resident" means an individual who is physically present in Alaska with the intent to remain in the state indefinitely. An individual may demonstrate an intent to remain in the state by maintaining a residence in the state, possessing a resident fishing, trapping or hunting license, or receiving a permanent fund dividend. "Alaska companies" means companies incorporated in Alaska or whose principal place of business is in Alaska. If a court invalidates any portion of this provision, Buyer agrees to employ Alaska residents and Alaska companies to the extent permitted by law.

ARTICLE XXIV **COUNTERPARTS**

24.1 Counterparts. This Agreement may be executed in multiple counterparts. It is not necessary for the parties to sign the same counterpart. Each duly executed counterpart shall be deemed to be an original and all executed counterparts taken together shall be considered to be one and the same instrument.

ARTICLE XXV **MISCELLANEOUS**

25.1 Agreement Not to Be Construed Against Either Party as Drafter. The Parties recognize that this Agreement is the product of the joint efforts of the Parties and agree that it shall not be construed against either Party as drafter.

25.2 Entire Agreement. This Agreement constitutes the entire agreement and

understanding between the Parties about the subject matter of this transaction and all prior agreements, understandings, and representations, whether oral or written, about this subject matter are merged into and superseded by this written Agreement.

25.3 Headings. The headings throughout this Agreement are for reference purposes only and shall not be construed or considered in interpreting the terms and provisions of this Agreement.

25.4 Authority to Sign. Each person signing this Agreement warrants that he or she has authority to sign the Agreement.

25.5 Further Assurances. The Parties agree to do such further acts or execute such further documents as may reasonably be required to implement this Agreement.

25.6 Construction. Nothing in this Agreement shall be construed to make any Party an employee, agent, representative, or partner of the other Party.

25.7 Currency. All dollar amounts are U.S. dollars.

ARTICLE XXVI REOPENER

26.1 Use of Assumptions. This Agreement was made before the Open Season and before construction of the Gas Pipeline. In order to agree, the Parties made assumptions which they believed to be reasonable. The purpose of this Article is to permit changes in the Agreement if the assumptions turn out to be incorrect.

26.2 Mcfs and MMBtus. The Agreement assumes that Gas will be measured in Mcfs and that Royalty Value will be determined in MMBtus. If those assumptions are not correct, the

Parties will reform the Agreement to achieve the equivalent economic result.

26.3 Adjustment of the Seven-Month Notice Periods in Article III. Article III is based on the current notice periods required under the Leases and Unit Agreements to change the portion of Total Royalty Gas taken in-kind. If the State obtains shorter notice periods, the Parties will revise this Agreement to accommodate the different notice periods. The intent of this Section is to help the Buyer purchase a constant (or declining) volume of Buyer's Royalty Gas. This Section shall not be used to change any notice periods in Article III except the seven (7) Month periods.

26.4 Gas That Is Produced but Cannot Be Shipped. The Parties do not know where the Point of Delivery will be. Buyer prefers that the Point of Delivery for Buyer's Royalty Gas be at the entry point to the Gas Pipeline. Otherwise, Buyer may become obligated to take delivery of Buyer's Royalty Gas upstream of a conditioning plant or the Gas Pipeline, and because of failure of downstream facilities (including, but not limited to, failure of a conditioning plant or Gas Pipeline), Buyer will have to pay for but will not be able to ship the Buyer's Royalty Gas on the Gas Pipeline. The State is not willing to take the risk or expense of having to dispose of the Gas if this, or a similar, circumstance (the "Circumstance") occurs. The Parties prefer that Gas that is produced but cannot be shipped on the Gas Pipeline not be treated as royalty in-kind. The State is willing to attempt to ensure that the Gas not be royalty in-kind, and thus avoid the Circumstance.

The State agrees to exercise any and all rights it has under the 1980 FCSA, the Leases, the Unit Agreements, statutes, and regulations, and any rights it may have or acquire under future

agreements with the Lessees to attempt to ensure that the Gas will not be treated as royalty in-kind under the Circumstance, and the State further agrees to take all reasonable steps required to achieve that result.

If the State is unable to prevent the Gas from being treated as royalty in-kind, then the State will attempt to ensure that Buyer is entitled to the same rights to storage, cycling, injection, or use of the Gas in Unit operations to which the State is entitled for that portion of Total Royalty Gas not taken in-kind. Such negotiations will include, but not by limitation, (i) shortening the royalty in-kind notice election period to the shortest feasible period in the event of a Circumstance; (ii) the lowest feasible cost-based reinjection fee; and (iii) an agreement that no separate fee shall be assessed by the State for storage or rental while such Gas is being reinjected due to a Circumstance. Buyer agrees to reimburse the State, or bear directly, any costs associated with reinjection and storage of such Buyer's Royalty Gas.

If the Gas is treated as royalty in-kind, and if Buyer is not entitled to the same rights to storage, cycling, injection, or use of the Gas in Unit operations to which the State is entitled, then the Buyer may, subject to all Notice and time limitations applicable under this Agreement, and in no case on less than seven (7) Months Notice, reduce its Annual Nomination and its Maximum Quantity to zero for a period of not more than two years. Upon conclusion of the two-year period, either Party may terminate this Agreement, or the Parties may negotiate an appropriate resolution. If this Agreement continues, after appropriate Notice of resumption, which in no case shall be less than seven (7) Months, the Annual Nomination and the Maximum Quantity in effect at the time of suspension shall remain in effect unless the Parties agree otherwise.

This Section does not require that the State litigate. Buyer shall have no right to damages as a result of alleged or actual breach of the Section. The Parties shall act diligently and in good faith to implement this Section.

26.5 Dispute Resolution. Any disputes under this Article not resolved by good-faith and diligent negotiation shall be resolved under Article XII.

STATE OF ALASKA:

By _____
Its _____
Date _____

BUYER:

By _____
Its _____
Date _____

EXHIBIT 1

MAP WHICH DEFINES THE FOOTHILLS

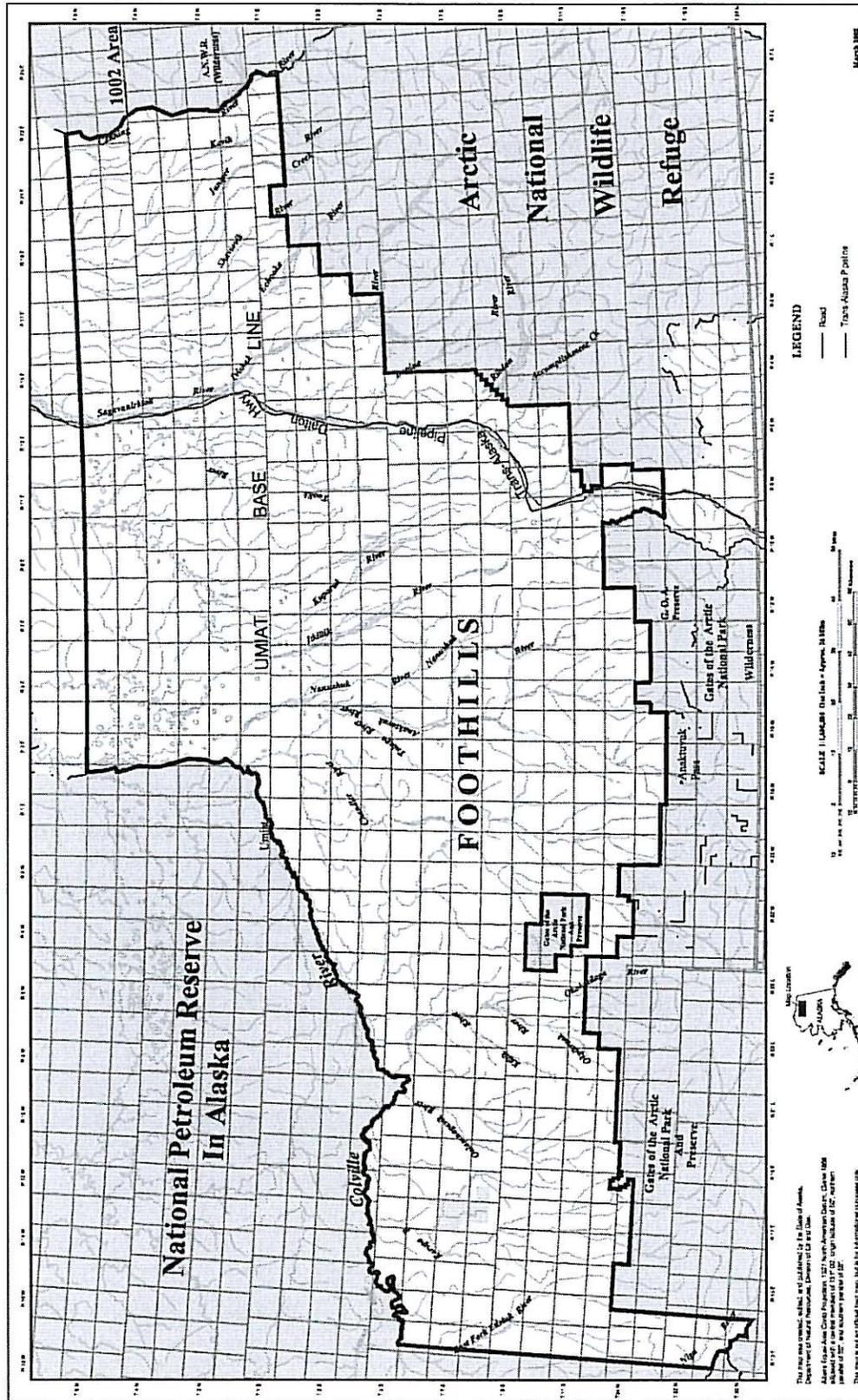


EXHIBIT 2

Eligible Expenditures for Exploration Work Commitment

“Eligible Expenditures” include, but are not limited to, payments made by the Joint Venture Participants to third parties for:

- 1) Seismic acquisition, processing, and analysis costs.
- 2) Cost of securing permits and other relevant regulatory approvals.
- 3) Cost of constructing, maintaining, and preparing lease access roads, staging areas, and Drill Pads.
- 4) Cost of rig mobilization and demobilization allocated to wells drilled.
- 5) Cost of well drilling including:
 - a) rig up costs to start drilling, moving and rig up rate;
 - b) cost of rig and rig labor daily drilling rate;
 - c) cost of rig standby rates when on location;
 - d) services and supplies while the well is being drilled;
 - e) mud and supplies;
 - f) well control and related costs;
 - g) testing and coring;
 - h) well logs;
 - i) cementing and casing;
 - j) well head equipment and other costs incurred to equip the well;
 - k) costs associated with temporarily or permanently abandoning exploratory wells;
 - l) costs associated with site restoration for exploratory wells;
 - m) costs of environmental compliance, including spill prevention preparedness and emergency response;
 - n) onsite technical labor supported by timesheets with description of work, including
 - i) drilling engineers,
 - ii) geologists;
 - o) offsite technical labor supported by timesheets with description of work, including
 - i) drilling engineers,
 - ii) geologists.

Eligible Expenditures do not include Buyer’s or Joint Venture Participants’ overhead, manpower costs, internal markups, depreciation, returns, or other financial costs.