**Mexican Addendum**

This Mexican Addendum (“Mexican Addendum”) is entered into as of the following date:

The parties to this Mexican Addendum are the following:

|  |  |  |
| --- | --- | --- |
| **PARTY A** | ***PARTY NAME*** | **PARTY B** |
|  | ***ADDRESS*** |  |
|  | ***BUSINESS WEBSITE*** |  |
|  | ***CONTRACT NUMBER*** |  |
|  | ***CONTRACT DATE*** |  |
|  | ***D-U-N-S® NUMBER*** |  |
|  US FEDERAL:  MEXICAN RFC:   OTHER: | ***TAX ID NUMBERS*** |  US FEDERAL:   MEXICAN RFC:   OTHER: |

IN WITNESS WHEREOF, the parties hereto agree to the terms and conditions set forth herein and have executed this Mexican Addendum in duplicate.

|  |  |  |
| --- | --- | --- |
|  | ***PARTY NAME*** |  |
| ­By: ­ | ***SIGNATURE*** | ­By: ­ |
|  | ***PRINTED NAME*** |  |
|  | ***TITLE*** |  |

**Addendum:** This Mexican Addendum constitutes an addendum to that certain Base Contract for Sale and Purchase of Natural Gas, as identified above, between the parties (“Base Contract”), and supplements and amends the Base Contract affecting transactions thereunder. Capitalized terms used in this Mexican Addendum which are not herein defined will have the meanings ascribed to them in the Base Contract.

The parties hereby agree to the following provision. In the event the parties fail to check a box, the default provision for this section shall apply. **Select only 1 box from this section:**

**Section 2.31: Spot Price Publication: Delete the selection made on the cover page of the Base Contract and replace it with the following:**

 Mexican Gas Price Reporter

 Gas Daily Midpoint (default)

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

The parties hereby agree to the following provision. In the event the parties fail to check a box, the default provision for this section shall apply. **Select only 1 box from this section:**

# **Section 10.4: Termination Currency**

 U. S. Dollars

 Mexican Pesos (default)

Either currency may be used

The parties hereby agree to the following provision. In the event the parties fail to check a box, the default provision for this section shall apply. **Select only 1 box from this section:**

**Section 15.5: Choice of Law:**  If a selection is made herein, delete the selection made on the cover page of the Base Contract and replace it with the following:

 Federal laws of the United Mexican States)

**Delete the last sentence of Section 1.3 and replace it with the following:**

“In the event of a conflict among the terms of (i) a binding Transaction Confirmation pursuant to Section 1.2, (ii) the oral agreement of the parties which may be evidenced by a recorded conversation, where the parties have selected the Oral Transaction Procedure of the Base Contract, (iii) the Special Provisions to the Base Contract, if applicable (iv) the Mexican Addendum, (v) other addendums to the Base Contract executed between the parties and (vi) the General Terms and Conditions of the Base Contract as limited by selections on its cover pages, the terms of the documents shall govern and have priority in the sequence listed in this sentence.”

**Delete Section 2.2 and replace it with the following:**

* + 1. “Affiliate” shall mean, in relation to any person, any entity controlled, directly or indirectly, by the person, any entity that controls, directly or indirectly, the person or any entity directly or indirectly under common control with the person. For this purpose, “control” of any entity or person means ownership of at least 50 percent of the voting power of the entity or person; and “entity” shall include a partnership of any kind.

**Delete Section 2.3 and replace it with the following:**

2.3 “Alternative Damages” shall mean such damages, expressed in United States dollars or United States dollars per MMBtu, or Mexican pesos or Mexican pesos per GJ, as the parties shall agree upon in the Transaction Confirmation, in the event either Seller or Buyer fails to perform a Firm obligation to deliver Gas in the case of Seller or to receive Gas in the case of Buyer.

**Delete Section 2.6 and replace it with the following:**

2.6 **“**Business Day” shall mean any day except Saturday, Sunday, statutory resting day under the Mexican Federal Labor Law or any other day on which commercial banks in Mexico City, are legally authorized to or bound to close.

**Delete Section 2.10 and replace it with the following:**

2.10 “Contract Price” shall mean:(i) if the Delivery Point is in the United States, the amount expressed in U.S. Dollars per MMBtu or, (ii) if the Delivery Point is in Mexico, the amount expressed in Mexican pesos per GJ, unless specified otherwise in a transaction, to be paid by Buyer to Seller for the purchase of Gas as agreed to by the parties in a transaction.

**Delete Section 2.13 and replace it with the following:**

2.13 "Credit Support Obligation(s)” shall mean any obligation(s) to provide or establish credit support for, or on behalf of, a party to this Contract such as an irrevocable standby letter of credit, a margin agreement, a security interest in an asset, a guaranty, Other Credit Support in the Form of Cash as described in Section 10.1(b), or other good and sufficient security of a continuing nature.

Delete Section 2.18 and replace it with the following:

2.18 “EFP” shall mean the purchase, sale or exchange of natural Gas as the “physical” side of an exchange for physical transaction involving gas futures contracts. EFP shall incorporate the meaning and remedies of “Firm”, provided that a party’s excuse for nonperformance of its obligations to deliver or receive Gas will be governed by the rules of the relevant futures exchange.

**Delete Section 2.21 and replace it with the following:**

* 1. “Guarantor” shall mean any entity that has provided a guaranty of the Financial Obligations of a party hereunder.

**Add the following as Section 2.37:**

2.37 “GJ” shall mean 1 gigajoule; 1 gigajoule = 1,000,000,000 Joules. The standard conversion factor between Dekatherms and GJ’s is 1.055056 GJ’s per Dekatherm.

**Add the following as Section 2.38:**

2.38 “Joule” shall mean the joule specified in the SI system of units.

**Add the following as Section 2.39:**

2.39 “Termination Currency Equivalent” shall mean, in respect of any amount denominated in a currency other than the Termination Currency (the “Other Currency”), the amount in the Termination Currency that the Non-Defaulting Party would be required to pay, on the Early Termination Date, to purchase such amount of Other Currency for spot delivery, as determined by the Non-Defaulting Party in a commercially reasonable manner.

**Add the following as Section 2.40:**

2.40 “Cash” or “cash” shall mean lawful currency of Mexico or the United States of America, as the case may be.

**Add the following as Section 2.41:**

2.41 “Financial Obligations” shall mean with respect to a party, all present and future debts, liabilities and financial obligations, direct or indirect, absolute or contingent, matured or not, extended or renewed, of that party under the Base Contract including, but not limited to, Credit Support Obligation(s).

**Add the following as Section 2.42:**

2.42 “Exchange Rate” shall mean regarding any Day, the exchange rate published by the Mexican central Bank (*Banco de México*) in the Official Gazette of the Federation to be applied to any payment made according to the price Directive.

**Add the following as Section 2.43:**

2.43 “CRE” shall mean the Mexican Energy Regulatory Commission (*Comisión Reguladora de Energía*) or any other substituting agency.

**Add the following as Section 2.44:**

2.44 “CENAGAS” shall mean the Mexican National Center for the Control (*Centro Nacional de Control del Gas Natural*) of Natural Gas or any other substituting agency.

**Add the following as Section 2.45:**

2.45 “Peso” shall mean the currency of Legal tender in Mexico.

**Add the following at the beginning of Section 5:**

The unit of quantity measurement for purposes of this Contract shall be one MMBtu or GJ dry, as agreed to by the parties in a transaction. Measurement of Gas quantities hereunder shall be in accordance with the established procedures of the Receiving Transporter.

All Gas delivered by Seller shall meet the pressure, quality and heat content requirements of the Receiving Transporter in accordance with Schedule 5 to this Addendum.

**Add the following to Section 6:**

|  |
| --- |
| Sections 6.2, 6.3 and 6.4 apply if the Delivery Point is in Mexico. |
| 6.2 The Contract Price does not include any amounts payable by Buyer for for Taxes triggered in Mexico (including without limitation, the value added tax (*impuesto al valor agregado*), the excise tax (*impuesto especial sobre producción y servicios*), among others). Notwithstanding whether the parties have selected “Buyer Pays At and After Delivery Point” or “Seller Pays Before and At Delivery Point” as indicated on the Base Contract, Buyer will pay to Seller the amount of Taxes payable for the purchase of Gas in addition to all other amounts payable under the Contract. Seller will hold the tax paid by Buyer and will remit such tax as required by law. Buyer and Seller will provide each other with the information required to make such tax remittance or claim any corresponding input tax credits, including tax registration numbers. |
| 6.3 Where Buyer indicates to Seller that Gas will be exported from Mexico, the following shall apply: The party exporting Gas shall be in charge of any Tax triggered in Mexico arising from Gas export. |
| 6.4 In the event that any amount becomes payable pursuant to the Contract as a result of a breach, modification or termination of the Contract, the amount payable shall be increased by any applicable Taxes remittable by the recipient in respect of that amount. |

**Delete Section 7.5 and replace it with the following****:**

7.5 If the invoiced party fails to remit the full amount payable when due, interest on the unpaid portion shall accrue from the date due until the date of payment at a rate equal to the lower of: (i) if the amount payable is in United States currency, the then-effective prime rate of interest published under “Money Rates” by The Wall Street Journal, plus two percent per annum; or, if the amount payable is in Mexican currency, the per annum rate of interest identified from time to time as the prime lending rate charged to its most credit worthy customers for Mexican currency commercial loans by the Mexican central Bank in the Official Gazette of the Federation, plus two percent per annum; or (ii) the maximum applicable lawful interest rate.

**Delete Section 7.7 and replace it with the following:**

7.7 Unless the parties have elected on the Base Contract not to make this Section 7.7 applicable to this Contract, the parties shall net all undisputed amounts due and owing, and/or past due, in the same currency, arising under the Contract such that the party owing the greater amount shall make a single payment of the net amount to the other party in accordance with Section 7; provided that no payment required to be made pursuant to the terms of any Credit Support Obligation or pursuant to Section 7.3 shall be subject to netting under this Section. If the parties have executed a separate netting agreement, the terms and conditions therein shall prevail to the extent inconsistent herewith.

# **Add the following as Section 7.8:**

7.8 For each transaction, all associated payments shall be made in the currency of the Contract Price for such transaction.

**Delete Section 8.4 in its entirety and replace with the following:**

8.4 The parties agree that the delivery of and the transfer of title to all Gas under this Contract shall take place within the Territory of Mexico as defined by article 42 of the Mexican Federal Constitution and recognized by international treaties); provided, however, that in the event Seller took title to the Gas outside the Customs Territory of Mexico, Seller represents and warrants that it is the importer of record for all Gas entered and delivered into Mexico, and shall be responsible for entry and entry summary filings as well as the payment of duties, taxes and fees, if any, and all applicable record keeping requirements.

**Delete Section 10.1 and replace it with the following:**

* 1. If either party (“X”) has reasonable grounds for insecurity regarding the performance of any obligation under this Contract (whether or not then due) by the other party (“Y”) (including, without limitation, the occurrence of a material change in the creditworthiness of Y or its Guarantor, if applicable), X may demand Adequate Assurance of Performance or Other Credit Support in the Form of Cash, where:

1. “Adequate Assurance of Performance” shall mean sufficient security in the form, amount, for a term, and from an issuer, all as reasonably acceptable to X, including, but not limited to a standby irrevocable letter of credit, a prepayment in the form of cash, a security interest in an asset or a guaranty; or
2. “Other Credit Support in the Form of Cash” shall mean: a) Y transfers to X Cash (excluding prepayment in the form of cash) as credit support, and b) the relationship between Y and X is a relationship of creditor and debtor, respectively, and (c) all right, title and interest in the Other Credit Support in the Form of Cash is transferred absolutely by Y to X. Although no security interest is created in Other Credit Support in the Form of Cash, Party Y hereby pledges to X as security for the Financial Obligations and grants to X a first priority continuing security interest in, lien on and right to setoff Other Credit Support in the Form of Cash against any amounts payable by Y with respect to the Financial Obligations. This right of setoff can be exercised in the same circumstances as X can exercise its rights under Paragraph 10.3. Party X shall have the right to sell, pledge, rehypothecate, assign, invest, use, commingle or otherwise dispose of, or otherwise use in its business any Other Credit Support in the Form of Cash transferred to it by Y in accordance with the terms hereof, free from any claim or right of any nature whatsoever of Y, including any equity or right of redemption by Y.

Upon the return by X to Y of such Adequate Assurance of Performance or Other Credit Support in the Form of Cash, as the case may be, the security interest and lien granted hereunder on that Adequate Assurance of Performance or Other Credit Support in the Form of Cash shall be released automatically and, to the extent possible, without any further action by either party.

**In Section 10.2(vii) delete the term “Adequate Assurance of Performance” and substitute therefore the term “Adequate Assurance of Performance or Other Credit Support in the Form of Cash”.**

**Add the following as Section 10.3.4:**

10.3.4 The Non-Defaulting Party shall use the Termination Currency Equivalent of any amount denominated in a currency other than the Termination Currency in performing any netting, aggregation or setoff required or permitted by Section 10.3.1 or 10.3.2.

**Delete Section 10.4 and replace it with the following:**

10.4. As soon as practicable after a liquidation, Notice shall be given by the Non-Defaulting Party to the Defaulting Party of the Net Settlement Amount, and whether the Net Settlement Amount is due to or due from the Non-Defaulting Party. The Notice shall include a written statement explaining in reasonable detail the calculation of the Net Settlement Amount, provided that failure to give such Notice shall not affect the validity or enforceability of the liquidation or give rise to any claim by the Defaulting Party against the Non-Defaulting Party. The Net Settlement Amount as well as any setoffs applied against such amount pursuant to Section 10.3.2, shall be paid, in the Termination Currency, by the close of business on the second Business Day following such Notice, which date shall not be earlier than the Early Termination Date. Interest on any unpaid portion of the Net Settlement Amount as adjusted by setoffs, shall accrue from the date due until the date of payment at a rate equal to the lower of: (i) if the amount payable is in United States currency, the then-effective prime rate of interest published under “Money Rates” by The Wall Street Journal, plus two percent per annum; or, if the amount payable is in Mexican currency, the per annum rate of interest identified from time to time as the prime lending rate charged to its most credit worthy customers for Mexican currency commercial loans by the Mexican central Bank (*Banco de México*) in the Official Gazette of the Federation, plus two percent per annum; or (ii) the maximum applicable lawful interest rate. Notwithstanding the foregoing, if the Non-Defaulting Party owes the Net Settlement Amount to the Defaulting Party, the obligation of the Non-Defaulting Party to pay to the Defaulting Party the Net Settlement Amount, shall not arise until, and shall be subject to the condition precedent that, (i) all transactions are terminated in accordance with this Contract and (ii) all obligations (contingent or absolute, matured or unmatured) of the Defaulting Party and any Affiliate of the Defaulting Party to make any payment to the Non-Defaulting Party or any Affiliate of the Non-Defaulting Party shall have been fully and finally performed.”.

**Delete Section 10.5 and replace it with the following:**

10.5 [The transactions under this agreement do not constitute a forward contract under Mexican Bankruptcy Law. Therefore, we suggest deleting Section 10.5.]

**Delete the last sentence of Section 14 and replace it with the following:**

**“**For the purposes of the calculation of a replacement price for the Floating Price, all numbers shall be rounded to four decimal places. If the fifth decimal number is five or greater, then the fourth decimal number shall be increased by one and if the fifth decimal number is less than five, then the fourth decimal number shall remain unchanged.”

**Delete Section 15.5 and replace it with the following:**

The interpretation and performance of this Contract shall be governed by the laws of the personal jurisdiction as indicated on the Base Contract, excluding, however, any conflict of laws rule which would apply the law of another jurisdiction.

**Section 15.10:**

In the first sentence on line 3 after the phrase “that the employees, lenders, royalty owners, counsel, accountants and other agents of the party” insert the following phrase “, or its Affiliates”

**Delete Exhibit A (“Transaction Confirmation”) and replace it with the following:**

TRANSACTION CONFIRMATION EXHIBIT A

FOR IMMEDIATE DELIVERY

|  |  |  |  |
| --- | --- | --- | --- |
| Letterhead/Logo |  | | Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_ Transaction Confirmation #: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| This Transaction Confirmation is subject to the Base Contract between Seller and Buyer dated  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. | | | | |
| This Transaction Confirmation is also subject to the Mexican Addendum between Seller and Buyer dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_:   Yes (default)  No | | | | |
| The terms of this Transaction Confirmation are binding unless disputed in writing within 2 Business Days of receipt unless otherwise specified in the Base Contract. | | | | |
| **SELLER:**  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Attn: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Phone: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Fax: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Base Contract No. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Transporter: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Transporter Contract Number:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | | **BUYER:**  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Attn: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Phone: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Fax: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Base Contract No. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Transporter: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Transporter Contract Number:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | | |
| Contract Price: U.S. $       \_\_\_\_\_ /MMBtu or Mexican $ \_\_\_\_\_\_\_\_\_\_/GJ or \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | | | | |
| Delivery Period:  Begin:                        , \_\_\_   End:                    , \_\_\_ | | | | |
| **Performance Obligation and Contract Quantity:** (Select One)  **Units**:  MMBtu or  GJ or  Other \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  **Firm (Fixed Quantity):** **Firm (Variable Quantity):** **Interruptible:**                Units/day               Units/day Minimum Up to              Units/day   EFP               Units/day Maximum  subject to Section 4.2. at election of   Buyer or  Seller | | | | |
| **Delivery Point(s):** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  (If a pooling point is used, list a specific geographic and pipeline location): | | | | |
| **Mexican Export Comment** (Section 6.3):  No (default)  Yes  (If Gas is to be exported, the party responsible for the export be in charge of any Tax triggered in Mexico arising from Gas export as well as responsible of securing the corresponding Gas export permit.) | | | | |
| **Special Conditions:** | | | | |
| Seller: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_    By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_    Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_    Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | | Buyer: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | | |