

THIS AGREEMENT, made and entered into as of this 1st day of November, 1954, by and between WESTERN KENTUCKY GAS COMPANY of Owensboro, Kentucky, a corporation of the State of Delaware, (hereinafter referred to as "Seller"), party of the first part, and NATIONAL CARBIDE COMPANY, a Division of Air Reduction Company, Incorporated, 60 East 42nd Street, New York 17, New York, a corporation of the State of New York, (hereinafter referred to as "Buyer"), party of the second part.

WITNESSETH:

WHEREAS, the Seller has constructed a distribution system which it owns and operates for the transportation and sale of natural gas, and desires to sell, and the Buyer desires to purchase natural gas from the Seller for its industrial processing purposes and related uses, in its Calvert City, Kentucky, plant or plants, but not for resale;

NOW, THEREFORE, for and in consideration of the premises and of the mutual and dependent covenants and agreements hereof, the Seller and Buyer have agreed and do hereby covenant and agree, each with the other, as follows:

SCOPE OF CONTRACT

1. The Seller agrees to deliver and sell to the Buyer, and the Buyer agrees to receive and purchase from the Seller, all of the Buyer's natural gas requirements for industrial processing and related uses, as hereinafter specified, subject to the terms and conditions hereinafter set forth.

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2. All gas delivered under this contract shall be sold and purchased on a Daily Contracted Demand basis under which the Buyer specifies in advance its estimated Maximum Daily Requirements, it being understood and agreed between the Buyer and Seller that this amount of quantity as specified shall constitute the basis for the daily billing under the rate schedule applicable to this contract.

The Buyer hereby establishes said Daily Contracted Demand as 500 Mcf for the first year of the term hereof. At the end of the first year and each successive year of the term hereof said Daily Contracted Demand as herein established may be revised by mutual agreement of the Buyer and Seller but if not so revised said Daily Contracted Demand as established herein shall remain in full force and effect for the term hereof.

A term is hereby granted to the Buyer by the Seller for a development period to provide time for the Buyer's plant to reach full capacity and gas consumption. This development period shall begin with the date of the first or initial delivery of gas and shall be for a period of five months.

PRICES

3. (a) The Buyer shall pay the Seller at the following rates

for all gas sold and delivered by the Seller under this contract:

For the first 25% of the Daily Contracted Demand or of the actual daily delivery, whichever is the greater: 40¢ per Mcf.

For the next 25% of the Daily Contracted Demand or of the actual daily delivery, whichever is the greater: 36¢ per Mcf.

For the next 50% of the Daily Contracted Demand or the remainder of the actual daily delivery: 32¢ per Mcf.

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(b) During the development period as specified herein, the price of gas shall be 35¢ per Mcf, which is the average price of the specified rate at 100% load factor.

(c) During any day when the Buyer complies fully, within reasonable limitations, with any partial or complete curtailment order of the Seller as provided for in Section 23, the volume of gas during any portion of such day shall be billed at a rate of 35¢ per Mcf.

(d) In the event that any tax, assessment or fee is imposed or levied after the execution of this contract by any Federal, State or Municipal government or governmental agency on the production, severance, gathering or sale of the gas sold and delivered hereunder and is payable by the Seller to its supplier or to any such government or governmental agency, the Buyer shall pay to the Seller, in addition to the prices hereinabove set forth, such portion of any such tax, assessment or fee as shall be applicable to the total amount of gas sold and delivered to the Buyer after the imposition or levy of such tax, assessment or fee.

(e) In the event that the cost of gas purchased by the Seller from its supplier for delivery under this contract is increased or decreased after the execution of this contract, the price of gas sold and delivered hereunder shall be increased or decreased, as the case may be, by such portion of said increase or decrease as shall be applicable to the total amount of gas sold and delivered to the Buyer after the effective date of such increase or decrease.

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(f) In the event the amount of any increase in the cost of gas due to the provisions of Sections 3 (d) and 3 (e), in the judgment of the Buyer, shall operate to make the price of gas prohibitive, then the Buyer shall have the right and privilege of cancelling and terminating this contract by the giving of thirty (30) days' advance written notice to Seller, and thereupon all obligations and liabilities of the parties hereunder shall cease, provided, further, that such cancellation and termination shall not affect Buyer's obligation to pay for all gas theretofore delivered by Seller.

(g) The Minimum Monthly Bill shall be the product of 25% of the Daily Contracted Demand multiplied by the price or rate for the gas in the first or highest bracket as specified herein times ten (10) and Buyer shall pay same in the event the charge for gas used in any monthly billing period computed on the regular basis does not equal or exceed this minimum monthly bill as specified; however, if, for any reason, gas is curtailed to the extent that less than 25% of the Daily Contracted Demand is available to Buyer for a period of less than ten (10) days in any billing month, and the total monthly billing is less than the Minimum Monthly Bill as provided for above, then the Minimum Monthly Bill shall be computed on a basis of the actual number of days in the billing month on which a minimum of 25% of the Daily Contracted Demand was available to Buyer.

This minimum monthly bill shall apply and be effective from and after the date of the expiration of the development period as provided in Section 2.

The minimum bill during the development period shall be \$250.00 per month.

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(b) If, at any time, subsequent to the date of execution of this contract and prior to the expiration of same, Seller shall enter into a contract with others providing for the sale by it of gas in this same delivery or service area or Supplier's zone for comparable uses, in comparable quantities and under comparable operating and delivery conditions, but at a lower or more favorable price or rate than specified herein, then, in that event, the price or rate specified in this contract shall be immediately reduced so that it will not exceed the price or rate payable at the same time under such other contract.

VOLUMES

4. This contract shall apply only to the utilization, quantities and location specified as follows:

- (a) Utilization: Chemical processing and related uses.
- (b) Maximum Hourly Demand: 36 Mcf.
- (c) Daily Contracted Demand: 500 Mcf.
- (d) Maximum Monthly Demand: 16,000 Mcf.
- (e) Maximum Delivery Pressure: 100 Pounds
- (f) Location: Buyer's plant or plants in or near Calvert City, Kentucky.

5. In the event that the Buyer requires more gas than the amounts specified in Section 4 hereof said amounts may be increased by mutual agreement provided the Seller has or can make available the necessary additional facilities and gas to meet such increased requirements without penalizing the Seller or affecting the Seller's obligations or commitments to its other customers.

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BILLING AND PAYMENTS

6. Seller shall render bills on or before the tenth (10th) day of each calendar month for all gas delivered hereunder during the preceding month, and Buyer shall pay same on or before the twentieth (20th) of the month.

7. In the event Buyer shall fail to pay any bill for gas delivered hereunder, within the time herein provided, Seller, in addition to any other remedy it may have, may, at its option, upon reasonable notice to Buyer, cancel and terminate this contract, provided that such cancellation and termination shall not affect Buyer's obligation to pay for all gas theretofore delivered by Seller.

POINT OF DELIVERY

8. The point of delivery of all gas is at the outlet of Seller's meter and Seller shall be in control and possession of the gas delivered hereunder and responsible for any damage or injury caused thereby until the same shall have been delivered to Buyer at the point of delivery, after which Buyer shall be deemed to be in control and possession thereof and responsible for any injury or damage caused thereby.

9. Each party shall indemnify and save harmless the other party on account of any and all damages, claims or actions arising out of the operation or maintenance of the property or equipment of the indemnifying party, the point of delivery as hereinbefore specified, to be the point of division of responsibility between the parties.

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QUALITY

10. The gas delivered hereunder shall be commercially free from objectionable dust or other solid, liquid or gaseous matters which might interfere with its merchantability or utilization.

11. The average total heating value of the gas delivered hereunder shall be approximately One Thousand (1,000) British Thermal Units per cubic foot and shall vary only with Seller's supply. If, for any reason, the average total heating value falls below Nine Hundred and Fifty (950) British Thermal Units per cubic foot, Buyer shall have the right and privilege of refusing to accept delivery of the gas, without penalty, if it so desires and of cancelling and terminating the contract at its discretion.

12. The total heating value of the gas delivered hereunder shall be determined by a recording calorimeter located at Seller's supplier's compressor station at Slaughters, Kentucky, or at such other place as may be available and more practicable in the circumstances.

MEASUREMENT

13. The sales unit of the gas delivered hereunder shall be One Thousand (1,000) cubic feet (Mcf) measured according to Boyle's Law for the measurement of gas under pressure with deviations therefrom in accordance with standard or recognized practices or methods.

14. The deviation of the gas from Boyle's Law, at the pressures under which said gas is delivered hereunder, shall be determined by standard or approved methods which may be practicable in the circumstances at such times and places as may be expedient in practice.

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15. The unit of volume for the purpose of measurement shall be One (1) cubic foot of gas at a temperature of sixty (60) degrees Fahrenheit and at a pressure of fourteen and sixty-five hundredths (14.65) pounds per square inch absolute.

16. The average absolute atmospheric (barometric) pressure shall be assumed to be fourteen and four tenths (14.4) pounds per square inch, irrespective of actual elevation or location of the point of delivery above sea level or variations in such atmospheric pressure from time to time.

17. The temperature of the gas flowing through the meters shall be assumed to be sixty (60) degrees Fahrenheit, provided, however, Seller may, at its option, install a recording thermometer to record the actual flowing temperature of the gas through the meter. Where such installation is provided, the arithmetic average of the temperature recorded shall be used in computing measurements.

18. The specific gravity and relative humidity of the gas delivered hereunder shall be determined by standard or approved methods which may be practicable in the circumstances at such times and places as may be expedient in practice.

MEASURING EQUIPMENT

19. The Seller agrees to install, operate and maintain the necessary regulating and metering equipment of suitable capacity and design to regulate and measure the gas deliveries as specified herein. Suitable site or location for the regulating and metering equipment is to be provided by the Buyer, and the title to this equipment shall remain in the Seller, with the right

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to install, operate, maintain and remove same, and no charge shall be made by Buyer for use of premises so occupied. The Buyer agrees to install such additional regulating equipment as may be necessary for satisfactory operation and utilization, and shall also provide and maintain at its expense suitable equipment to insure reasonable limitation of intermittance or fluctuation in the use of gas and shall so regulate their operations and the use of gas hereunder so as not to interfere with gas service being furnished to other customers or with the proper metering of gas at any location.

20. The accuracy of Seller's measuring equipment shall be verified by Seller at reasonable intervals, and whenever requested by Buyer, but Seller shall not be required to verify the accuracy of such equipment more frequently than once in any thirty (30) day period.

21. Buyer shall have the right to be present at the time of any installing, reading, cleaning, changing, repairing, inspecting, calibrating or adjusting done in connection with Seller's measuring equipment used in measuring deliveries hereunder. The records from such measuring equipment shall remain the property of the Seller, but, upon Buyer's request, Seller will submit such records and charts, together with calculations therefrom for Buyer's inspection and verification, subject to return within ten (10) days after receipt thereof.

22. If, upon test, any measuring equipment is found to be not more than two (2) percent fast or slow, previous recordings of such equipment shall be considered correct in computing the volume of gas delivered hereunder, but such equipment shall be adjusted properly at once to record accurately. If, upon test, any measuring equipment is found to be inaccurate by an

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amount exceeding two (2) percent, at a recording corresponding to the average hourly rate of flow for the period since the last preceding test, then any previous recordings for any period in which such equipment is known to have been inaccurate or for such period as shall be agreed upon shall be corrected to zero error, provided, however, that in no case shall any correction be made for a period exceeding one-half of the time elapsed since the date of the last test or for a period exceeding thirty (30) days, whichever is shorter.

CURTAILMENT OF DELIVERIES

23. The Seller shall use reasonable care to furnish the Buyer with a continuous and adequate supply of gas; however, the supply of gas provided for hereinafter shall be sold on an interruptible basis, and the Seller shall have the right at any time, without liability to the Buyer, to curtail or, if necessary, to discontinue the delivery of gas entirely to the Buyer for any period of time when such curtailment or discontinuance is necessary to protect the requirements of domestic and commercial customers, to avoid an increased Maximum Daily Demand in Seller's gas purchases, to avoid excessive peak loads and demand on the gas distribution system, to comply with any restriction or curtailment as may be imposed by any governmental agency having jurisdiction or by Seller's pipe line supplier of gas, or for any necessary or expedient reason, at the discretion of the Seller.

24. Whenever any such curtailment or discontinuance is necessary, in the judgment of the Seller, the Seller shall give the Buyer as much advance notice as is practical under all the circumstances.

25. Buyer agrees to provide such adequate standby, auxiliary and/or additional fuel, and proper and adequate equipment to utilize same, as

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may be required or necessary, at Buyer's discretion, to protect its fuel requirements and best interests, and to assure continuous operations, with the interruptible terms and conditions of this contract considered.

26. The Seller shall not be liable for failure to deliver and the Buyer shall not be liable for failure to accept gas covered by this contract when such failure to deliver or accept such gas is due to acts of God, acts of an alien enemy, the elements, labor troubles, riots and civil commotion, fires, accidents, breakage or repair of pipe lines, equipment or machinery, requirements of domestic and commercial customers, excessive peak loads and demands on the gas distribution system, restrictions or curtailments imposed by any government or governmental agency having jurisdiction or by the Seller's supplier, or other causes or contingencies beyond the control of, and occurring without the negligence, of the Seller or the Buyer. The Seller shall resume delivering and the Buyer shall resume accepting gas when such causes or contingencies cease to be operative.

SUBJECT TO REGULATION

27. This contract shall be subject to the valid laws, orders, rules and regulations of all duly constituted authorities having jurisdiction over either or both the Seller and Buyer.

TERM

28. This contract shall become effective as of the date of the first or initial deliveries of gas hereunder and shall continue in effect for a period of five (5) years. Upon the expiration of said five (5) year period said contract shall continue in effect unless and until terminated by either party giving the other party at least ninety (90) days' prior written notice of

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termination; provided, however, that if, for any reason, the Buyer shall fail to accept and utilize gas hereunder within a period of one (1) year after the date of execution of this contract, the Seller shall have the right to terminate this contract as of the end of such year by giving the Buyer at least ten (10) days' prior written notice of termination.

29. This contract shall be binding upon and inure to the benefit of the Seller and the Buyer and their respective successors and assigns.

#### NOTICES

30. Any notice, statement or bill provided for in this contract, or any notice which either party may desire to give to the other party shall be in writing and shall be considered as being duly delivered when mailed, by either registered or ordinary mail, to the post office address of either of the parties hereto, addressed, as the case may be, as follows:

**Seller:** Western Kentucky Gas Company  
423 West Third Street  
Owensboro, Kentucky

**Buyer:** National Carbide Company, a Division of  
Air Reduction Company, Incorporated  
60 East 42nd Street  
New York 17, N. Y.  
Attention: The Secretary

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Either party may change its address under this provision by notice to the other party.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in several counterparts by their proper officers, thereunto duly authorized, and attested by their respective Secretaries or Assistant Secretaries and their respective corporate seals to be hereto affixed, as of the day and year first above written.

SEAL

ATTEST:

s/Priscilla Head

Secretary

WESTERN KENTUCKY GAS COMPANY

s/ J. L. Bugg

By

Vice President

ATTEST  
SEAL

s/T. S. O'Brien

Secretary

NATIONAL CARBIDE COMPANY, a  
Division of Air Reduction Company,  
Incorporated

By s/ J. Carl Bode

President

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