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13 JUN 12 PM 4:41
COMMISSION
CLERK

June 12, 2013

HAND DELIVERY

Ms. Ann Cole, Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Docket No. 120311-GU - Petition for approval of positive acquisition adjustment to reflect the acquisition of Indiantown Gas Company by Florida Public Utilities Company

Dear Ms. Cole:

Enclosed for filing, please find an original and 5 copies of Florida Public Utilities Responses to Staff's Third Set of Data Requests in the referenced docket. Also enclosed, as requested, is a copy of Attachment 2 on CD in Excel format with formulas intact and unlocked.

As always, please do not hesitate to contact me if you have any questions or concerns. Thank you for your assistance with this filing.

Sincerely,



Beth Keating
Gunster, Yoakley & Stewart, P.A.
215 South Monroe St., Suite 601
Tallahassee, FL 32301
(850) 521-1706

cc:// Staff Counsel (Klancke)
Office of Public Counsel (Christensen)

COM
AFD 1+0
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TEL
CLK

DOCUMENT NUMBER-DATE

03272 JUN 12 03

Re: Docket Number 120311-GU - Petition for approval of positive acquisition adjustment to reflect the acquisition of Indiantown Gas Company by Florida Public Utilities Company.

The responses of Florida Public Utilities Company ("FPUC" or "Company") to Commission Staff's Third Set of Data Requests in the referenced docket are as follows:

In responding to requests 1-6 below, please reference FPUC's responses to Staff's Second Data Request:

1. Please refer to the Company's response to Staff's Second Data Request, question number 1. The total annual operating savings were included in "Operating Cost Savings-Personnel Related" in the amount of \$187,792 from 2010 through 2024. In light of the fact that the Company did not review the source documents of IGC that were used as part of the calculation process, please identify what portion of the \$187,792 is a verifiable cost savings for the ratepayer on a going forward basis?

Company Response: As noted in the Company's response to question number 1 of Staff's Second Data Request, the Company did not review the June 30, 2010 expense data by FERC expense account. The Company, instead, relied upon the Earnings Surveillance Reports, which had been filed by Indiantown Gas (as with all regulated utilities) in accordance with Section 837.06, Florida Statutes, which states "Whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his official duty shall be guilty of a misdemeanor of the second degree punishable as provided in s. 775.082, s. 775.083 or s. 775.084." Because the June report filed by Indiantown Gas was signed by an officer of Indiantown Gas Company, the Company believed, and still believes, that it is reasonable to assume that all of the data is accurate and reliable and can be used in this proceeding as a basis for determining the cost savings for ratepayers on a going forward basis.

2. Please refer to the Company's response to Staff's Second Data Request question number 4(a). Please provide a breakdown of the \$18,301 for total distribution expense. For the purposes of this response, please provide the information in Excel format with the formulas intact that show: (1) number of monthly employees; (2) total salaries and benefits; (3) payroll taxes; (4) number of hours worked; (5) vehicle expense; and (6) applicable allocation factors.

Company Response: See Attachment 2.

3. Please explain in detail why the labor and vehicle costs provided in response to questions 4(a) and 4(b) were not included in the chart under Operating Cost Increases-Personnel Related and Operating Cost Increases-Transportation.

Company Response: The Company is providing the chart with the requested information shown under Operating Cost Increases – Personnel Related and Operating Cost Increases – Transportation in Attachment 3.

DOCUMENT NUMBER-DATE

03272 JUN 12 2

FPSC-COMMISSION CLERK

4. Provide a detailed explanation of why the allocated costs for executive officers and directors in the amount of \$703 and \$340, respectively, shown in the December 31, 2011 Annual Report were not included in the chart as Operating Cost Increases-Corporate/FPUC.

Company Response: The Company is providing the chart with the requested information shown under Operating Cost Increases – Corporate/FPUC in Attachment 3.

5. Please refer to revised Exhibit CM-2, Schedule 3, page 2 of 2. Please explain why there is a bad debt provision for Indiantown Cogen of \$21,688, and a corresponding amount for current income taxes. Please provide any supporting documentation or calculations for further clarification.

Company Response: In the first quarter of 2011, a metering adjustment was made on the books for Indiantown Cogen for additional receivable and revenues of \$21,688. The Company felt this amount was not going to be collectible, so for surveillance reporting purposes, an offsetting bad debt accrual was made increasing expense. The net impact to net income from these two transactions on the Adjusted Net Operating Income is zero. In July 2012, it was determined that the metering adjustment was not appropriate, and it was reversed. The net impact to the surveillance report for the period in question is zero and is appropriate. See Attachment 5.

6. Please refer to revised Exhibit CM-2, Schedule 3, page 2 of 2. Please explain why there is a natural gas allocation adjustment in the amount of \$28,027, and a corresponding amount for current income taxes. Please provide any supporting documentation or calculations for further clarification.

Company Response: This is the allocation of work being performed on behalf of Indiantown that was not appropriately allocated to Indiantown on the books. See Attachment 6 for a detail of the personnel, allocation and amounts. The \$28,027 was the original amount filed; however, this amount was subsequently updated on the revised filing dated 11/5/12 to \$29,469.

Please refer to the Company's response to number 7(b) of Staff's First Data Request:

7. Per the Company's response, Ruth Associates was paid \$19,071 to do a Phase 1 Environmental Site Assessment for the real property purchased from Indiantown Gas. The review revealed a petroleum contamination.
- a. Please provide a copy of the report outlining the plan to clean up the petroleum contamination, the estimated costs, and the projected timeline to complete the clean-up.
 - b. Please provide a breakdown of the \$19,071 paid to Ruth Associates for Phase 1.

- c. Please identify the party responsible for any future payments and the designated contractor for ongoing clean-up activities to resolve the petroleum contamination of the real property.

Company Response:

- a. See Attachment 7A.
- b. See Attachment 7B for copies and breakdown of invoices.
- c. The wells have been abandoned and the Site requires no further action. There are no future payments or contractors required in this matter.

Please refer to Attachment 8a in FPUC's response to Staff's First Data Request for the following requests (nos. 8-11):

8. With respect to Item 3(b) it reflected that FPUC-Indiantown Gas Division paid IGC \$200,000 for IGC's real property located at Lot 6, Barkdull Gardens Subdivision. Please provide a breakdown of the \$200,000 paid for the real property by account and type of expense. For the purposes of this response, please provide a detailed explanation of how the property is currently being used and by whom.

Company Response: See Attachment 8 for the breakdown of the \$200,000 paid for the real property by account and type of expense (purchase price, non-compete agreement and acquisition premium). The Company, at the time of the acquisition, entered into a lease with Indiantown LP Gas Company (Indiantown), such that Indiantown would continue to occupy and utilize the property for its propane business (see Attachment 3). In addition, the Company also utilizes the property to store certain materials and equipment. The Company also acquired a rectifier system (capitalized in Plant Account 376.06 Natural Gas Mains – Steel) that provides protection to the natural gas distribution steel mains, which is located on the property. The control equipment for the rectifier system is located in the acquired building.

9. With respect to Item 3(c) of the sales agreement, it provides that FPUC-Indiantown Gas Division paid IGC \$451,721 for the natural gas plant and equipment as listed in Attachment 1(c). Please provide a breakdown of the cost of each listed item that comprises the \$451,721 amount.

Company Response: See Attachment 8 for the breakdown of the cost of each listed item that comprises the \$451,721 amount.

10. With respect to Item 3(g) of the sales agreement, it provides that FPUC-Indiantown Gas Division paid IGC \$129,000 for the equipment listed in paragraph 1(f). Please provide a breakdown of the cost of each listed item that comprises the \$129,000 amount.

Company Response: See Attachment 8 for the breakdown of the cost of each listed item that comprises the \$129,001 amount.

11. Please reconcile the costs identified in Exhibit MK-1, page 1 of 2 with the costs shown in the Sales Agreement, Section 3 - Closing, Purchase Price and Allocation of Purchase Price, and items 3(b), 3(c), and 3(g).

Company Response: See Attachments 8 and 11 for the reconciliation of the costs identified in Exhibit MK-1, page 1 of 2 with the costs shown in the Sales Agreement, Section 3 - Closing, Purchase Price and Allocation of Purchase Price, and items 3(b), 3(c), and 3(g).

Attachment 2

2. **Breakdown of Distribution Expense - \$18,301**

		<u>Total</u>
(2)	Total Salaries	\$ 4,007.89
(5)	Vehicle Expense	\$ 915.16
	Accounts Payable Purchases	\$ 13,277.32
	Vendors: Devetech Sales Inc	\$ 875.34
	W and W	\$ 48.36
	Heath Consultant	\$ 342.42
	CSX Transportation	\$ 532.52
	ITS Telecom	\$ 694.30
	Lake Welding Supplier Inc.	\$ 260.04
	Southeast Corrosion & Engineering Inc	\$ 5,950.00
	Southern Cathodic Protection Co	\$ 3,768.99
	Sunshine State One Call of Florida	\$ 805.35
	Miscellaneous Employee Expenses	\$ 101.02
	Total Distribution Expense	<u><u>\$ 18,301.39</u></u>

- (1) Number of monthly employees: 4 Employee
- (3) Payroll Taxes are not included in Distribution Expense.
- (4) Number of Hours Worked: 104.50
- (6) Allocation Factors:
 Most payroll is direct charged but some payroll is allocated based on the direct charges of the department and the allocation factors change month to month based on that specific department's direct payroll and the weighted average percentages of dollars directly charged by account number.

Florida Public Utilities Company - Indiantown Division
Docket Number 120311-GU
Responses to Questions 3 and 4
Attachment 3

	Pro-Rated 2010	Actual 2011	Projected 2012	Projected 2025	Total Anticipated Net Savings
Operating Cost Savings – Capacity	\$0	\$0	\$0	\$0	\$0
Operating Cost Savings – Cost of Capital	\$923	\$2,215	\$2,215	\$1,292	\$33,225
Operating Cost Savings – Personnel Related	\$217,628	\$522,308	\$522,308	\$304,680	\$7,834,620
Operating Cost Savings – Corporate	\$0	\$0	\$0	\$0	\$0
Operating Cost Increases – Personnel Related	\$6,358	\$15,258	\$30,258	\$17,651	\$432,620
Operating Cost Increases – Corporate & Benefits	\$435	\$1,043	\$1,043	\$608	\$15,645
Operating Cost Increases - Transportation costs	\$419	\$1,005	\$6,004	\$3,502	\$82,978
Operating Cost Increases - Other	\$132,171	\$317,210	\$297,211	\$173,373	\$4,486,497
Total Net Operating Cost Savings	\$79,170	\$190,007	\$190,007	\$110,837	\$2,850,105

**INDIANTOWN GAS COMPANY
 UTILITY SALES ANALYSIS
 FISCAL YEAR 2010**

Indiantown Cogeneration Revenue Metering Adjustment

MAR 2011 RATE CLASS	THERM SALES	FUEL BILLING	Cust Chg / BASE REVENUE	DEMAND CHARGE	NON-FUEL REVENUE	TARIFF	ECCR	TOTAL IGC REVENUES	INCREASE TO A/R	CALCULATED TARIFF
TS1		\$0.00				\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
TS1COM		\$0.00				\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
TS2		\$0.00				\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
TS3		\$0.00				\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
TS4	542,614	\$0.00	\$0.00	\$0.00	\$21,688.27	\$21,688.27	\$0.00	\$21,688.27	\$21,688.27	\$21,688.28
LDC		\$0.00				\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
ICLP	542,614	\$0.00	\$0.00	\$0.00	\$21,688.27	\$21,688.27	\$0.00	\$21,688.27	\$21,688.27	\$21,688.28
TOTAL DIST SALES	542,614	\$0.00	\$0.00	\$0.00	\$21,688.27	\$21,688.27	\$0.00	\$21,688.27	\$21,688.27	
MISC SALES								\$0.00		
INFINITE BILLING								\$0.00	\$0.00	
FPUC INVOICE								\$0.00		
Yard Rent								\$0.00		
TOTAL ALL SALES								\$21,688.27		
REVENUES SUBJECT TO RAF								\$21,688.27		
RAF .005								\$ 108.44		

RATE SCHEM	TARIFF	EI	ECCR	BASE
TS1	0.37835		0.01339	
TS2	0.05762		0.00233	
TS3	0.04785		0.00233	
TS4	0.03997		0.00087	

0	0	\$	-
0	0	\$	-
1	0	\$	-
0	0	\$	-

** DUPLICATE BILL **

FLORIDA PUBLIC UTILITIES CO.
RESPONSES TO STAFF'S 3RD
DATA REQUESTS
ATTACHMENT 5 (PG. 2 OF 3)

LO

Florida Public Utilities Co
P O Box 3395
West Palm Beach FL 33402-3395

Account Number: 367674-9 Please pay by Jan 30, 2012 174,198.86

INDIANTOWN COGEN L.P.
13303 SW SILVER FOX LN
INDIANTOWN, FL

IND Indus
Service from Nov 30 to Dec 31, 2011
Billing Date Jan 10, 2012

Meter no.	Rate	Days	New read	Last read	Mult	Factor	Units
949016	TS4I	31	1523280	0	1	1.01577	1547302.12T

Your meter was read On Dec 31, 2011

Previous Balance	\$44,085.02
Payments as of Dec 31, 2011	-9,203.53
Adjustments	5,035.00
Balance Forward	39,916.49
Energy charges:	
Customer Charge	2,000.00
Schedule - TS-4 1547302.12 Therms x \$0.	60,499.51
IND Conservation 4 1547302.12 Therms x.	711.76
Total energy charges	63,211.27
Other charges	
1 IND-Demand Gas-Co-Gen	5,035.00
Oct 2011	9,203.53
Sept 2011	11,202.03
June2011	9,495.75
May 2011	10,653.84
PP Adjustment	21,688.27
Taxes: 6% Sales Tax Utility	3,792.68
Total other charges	71,071.10
Total Balance	174,198.86
Please pay by Jan 30, 2012	\$174,198.86

Your average cost of
electricity during this
period was \$2,039.07
per day before taxes.

Bill date	Energy used	No. days	KWh per day
Dec 1547302.12		31	49913
Dec 1056085.91		29	36417

** DUPLICATE BILL **

FLORIDA PUBLIC UTILITIES CO.
RESPONSES TO STAFF'S 3RD
DATA REQUESTS
ATTACHMENT 5 (PG. 3 OF 3)

LO

Florida Public Utilities Co
P O Box 3395
West Palm Beach FL 33402-3395

Account Number: 367674-9 Please pay by Jul 26, 2012 28,469.04

INDIANTOWN COGEN L.P.
13303 SW SILVER FOX LN
INDIANTOWN, FL

IND Indus
Service from May 31 to Jun 30, 2012
Billing Date Jul 06, 2012

Meter no.	Rate	Days	New read	Last read	Mult	Factor	Units
949016	TS4I	30	532672	0	1	1.01715	541811.05T

Your meter was read On Jun 30, 2012

Previous Balance	\$40,954.65
Payments as of Jun 30, 2012	-20,886.38
Balance Forward	20,068.27
Energy charges:	
Customer Charge	2,000.00
Schedule - TS-4 541811.05 Therms x \$0.0	21,184.81
IND Conservation 4 541811.05 Therms x \$	249.23
Total energy charges	23,434.04
Other charges	
1 IND-Demand Gas-Co-Gen	5,035.00
Gas \$ Adjustment	1,620.00
PPA Adjustment -rev	-21,688.27
Total other charges	-15,033.27
Total Balance	28,469.04
Please pay by Jul 26, 2012	\$28,469.04

Your average cost of
electricity during this
period was \$781.13
per day before taxes.

Bill date	Energy used	No. days	KWh per day
Jun	541811.05	30	18060
Jun	350136.06	31	11295
May	575100.50	30	19170
Apr	22066.68	31	712
Mar	45597.39	29	1572
Feb	335291.71	31	10816
Jan	1547302.12	31	49913
Dec	1056085.91	29	36417

ALLOCATIONS FROM FPUC NATURAL GAS TO INDIANTOWN
 2011

Dept	Basis	Total	Allocation	%	Amount Alloc.		
					to Indiantown		
MG713	Jeff Householder	Expert Opinion/Customers	\$816,204.96	FE00	30.00	FN FI	Customers 52155 98.68% 700 1.32% 52855
				FN00	62.17		
				FI00	0.83		
				FF00	7.00		
					<u>100.00</u>		
MK400	Kevin Webber	Expert Opinion/Customers	\$440,871.37	Conserv-all	45.00		
				FE00	5.00		
				FN00	42.43		
				FI00	4.57		
				FF00	7.00	\$2,513	
	<u>100.00</u>						
GM410	Barry Kennedy	Time Study	\$184,912.09	Capital	50.00		
				FN	49.34		
				FI	0.66		
					<u>100.00</u>	\$1,224	
CR710 (2 Months)	Guilly Perea	Customers	\$22,945.12	FE00	28.00		
				FN00	59.21		
				FI00	0.79		
				FM00	0.00		
				FF00	12.00	\$182	
	<u>100.00</u>						
CR711 (2 Months)	Mike Cassel	Customers/Weighted Avg TSA	\$72,537.12	FE00	23.00		
				FN00	66.11		
				FI00	0.89		
				FM00	0.00		
				FF00	10.00	\$644	
	<u>100.00</u>						
CS400/CS401	Vince Messina Jeff Sylvester	Customers	\$796,595.84	FE00	28.00		
				FN00	59.21		
				FI00	0.79		
				FM00	0.00		
				FF00	12.00	\$6,330	
	<u>100.00</u>						
RA400	Regulatory	Plant/Time Study/Customers	\$294,534.08	Conserv-all	8.00		
				FE00	25.00		
				FN00	66.11		
				FI00	0.89		
					<u>100.00</u>	\$2,613	
CS411 (2 months)	CSR's	Customers 9% - 9010 91% - 9030	\$151,369.81	FN00	32.56		
				FF00	8.00		
				FI00	0.44		
				FE00	59.00		
					<u>100</u>	\$662	
CS412 (2 months)	CSR's	Customers 9% - 9010 91% - 9030	\$160,270.14	FN00	86.83		
				FF00	12.00		
				FI00	1.17		
				FM00	0.00		
					<u>100</u>	\$1,868	
Kubra (2 months)	Customers	Customers	\$122,092.49	FE00	28.00		
				FN00	59.21		
				FI00	0.79		
				FM00	0.00		
				FF00	12.00	\$970	
	<u>100.00</u>						
OB840	Administration	Square Footage/Customers	\$519,800.16	FE00	25.00		

				FN00	44.55	
				FF00	10.00	
				FM00	10.00	
				FI00	0.55	
				Cf00	9.90	
					<u>100</u>	\$2,859
MK410 (2 Months)	Marketing	Time Study/Customers	\$ 106,254.29	Conservation	45.00	
				FE00	5.00	
				FN00	34.54	
				FF00	15.00	
				FI00	0.46	
					<u>100</u>	\$489
MK411 (2 Months)	Marketing	Time Study/Customers	\$ 247,328.16	Conservation	42.00	
				FE00	0.00	
				FN00	41.44	
				FF00	13.00	
				FI00	0.56	
				FM00	3.00	
					<u>100</u>	\$1,385
GR410	Fleet	Number of Vehicles	\$ 146,893.89	FE00	18.00	
				FN00	48.35	
				FF00	33.00	
				FI00	0.65	
				FM00		
					<u>100</u>	\$955
Total Allocated from FPU to IND						<u>\$29,469</u>

Attachment 7A

FPUC'S RESPONSES TO STAFF'S THIRD DATA REQUEST

Re: Docket Number 120311-GU - Petition for approval of positive acquisition adjustment to reflect the acquisition of Indiantown Gas Company by Florida Public Utilities Company.

John Mildenberger of Ruth Associates submitted this report outlining the cleanup activity and plan for the real property purchased from Indiantown. Total expenses were \$43,876.20.

Florida Public Utilities Corporation (FPUC) engaged Ruth Associates, Inc. (RAI) to conduct a Phase I Environmental Site Assessment (ESA) of the property occupied by Indiantown Gas Company (IGC) located at 16600 Warfield Blvd., Indiantown, Florida 34956. During the Phase I ESA and subsequent Phase II work RAI identified petroleum impacts to soils and groundwater. In accordance with State law, RAI filed a Discharge Report Form (DRF) with the Florida Department of Environmental Protection (FDEP), on behalf of IGC.

In lieu of performing a Site Assessment (SA), RAI requested that IGC be allowed to conduct an Interim Source Removal (ISR). Impacted soils and groundwater were removed and disposed of; however, concentrations still remained above standards. An SA was then conducted by RAI. Three monitoring wells were installed and groundwater and soils were tested. As a result of the SA findings RAI recommended additional soil removal and monitoring of groundwater.

Soils and groundwater were both brought into compliance with standards and RAI issued a Source Removal Report (SRR) along with additional information requested by FDEP as a Site Assessment Report Addendum (SARA). As a result, FDEP issued a Site Rehabilitation Completion Order (SRCO).

The timeline for the work described above is provided here:

July 28, 2010	Phase I ESA submitted to FPUC
August 17, 2010	DRF submitted to FDEP
September 28, 2010	ISR submitted to FDEP
May 27, 2011	SA Report submitted to FDEP
April 20, 2012	SRR/SARA submitted to FDEP
June 6, 2012	SRCO issued by FDEP

The wells have been abandoned and the Site requires no further action.

Attachment 7B

FPUC'S RESPONSES TO STAFF'S THIRD DATA REQUEST

Re: Docket Number 120311-GU - Petition for approval of positive acquisition adjustment to reflect the acquisition of Indiantown Gas Company by Florida Public Utilities Company.

Invoice 1939	1/6/2011	\$1680.00
Invoice 1947	2/8/2011	\$1680.00
Invoice 1964	4/18/2011	\$7069.18
Invoice 1972	5/19/2011	\$2450.00
Invoice 1993	8/25/2011	\$6191.84

See Attached Invoices for details.

Ruth Associates, Inc.

8 East High Point Road
 Stuart, Florida 34996
 (772) 283-0959

Invoice No.
 1939

Client:

Florida Public Utilities
 1015 Sixth Street NW
 Winter Haven, FL 33882
 Attn: Thomas Geoffroy

Contract:

Project: CUIGC
Terms: Due on recpt
Date: 1/6/2011

Indiantown Gas Company - Indiantown, FL : October & November 2010

RAI received comments on the Interim Cleanup Report and the proposed Site Assessment activities. RAI negotiated the scope of site assessment activities with the State. The State required additional information on the status of soil disposal that took place prior to FPUC's acquisition of IGC. RAI worked with IGC to determine the location of soils that were not disposed of offsite. Plans were made for initiating the site assessment work.

Description	Rate	Quantity	Amount
John R. Mildenerger	140.00	11	1,540.00
Michele C. Ruth, PE	140.00	1	140.00
FI00 00000 ²⁸¹⁵ 2810 2530 CU90 MG999 6016 9230 <i>change to per April Lindgren: charge to transection costs re: acquisition</i>			

Total Amount Due

\$1,680.00

Distribution Stamp: Epicor 7.3.6 Distribution Stamp
Authorized By: Jones Tanzanika
Date/Time: 1/17/2011 9:44:56 AM

Company: Chesapeake Utilities
Organization: FC00
Vendor Code: VN000798
Vendor Name: RUTH ASSOCIATES INC
Remit-To Code:
Remit-To Name:
Invoice Number: 1939
Invoice Date: 1/6/2011
Invoice Total: 1,680.00

<u>Organization</u>	<u>Account Code</u>	<u>Account Name</u>	<u>Ref. Code</u>
	<u>Description</u>	<u>Amount</u>	
CU90	CU90MG99960109230	CU90 Corp Sr Mgmt Deal Struc OS Svc	
INDIANTOWN	GAS SITE ASSESSMENT	1,680.00	

Distribution Total:: 1,680.00
Difference:: 0.00

Internal Comment

APPROVED
1/17/2011 4:13 PM JHouseholder

Ruth Associates, Inc.
 8 East High Point Road
 Stuart, Florida 34996
 (772) 283-0959

Invoice No.
 1947

Client:

Florida Public Utilities
 1015 Sixth Street NW
 Winter Haven, FL 33882
 Attn: Thomas Geoffroy

Contract:

Project: CUIGC
 Terms: Due on recpt
 Date: 2/8/2011

Indiantown Gas Company - Billing Period: January, 2011:

Conducted Site Assessment activities including soil and groundwater sampling at the spill site and soil storage area. Samples were delivered to Southern Research Laboratories for analysis.

Description	Rate	Quantity	Amount
John R. Mildenberger	140.00	10	1,400.00
Michele G. Ruth, PE	140.00	2	280.00
Invoice Received By: <u>CR</u> on <u>2/14/11</u> (Initials) (Date) STINV: YES NO NA STPR: YES NO NA Received By: <u>C. Sawyer</u> Scanned Dated: <u>2/14/11</u> PR# <u>15768</u>			

Total Amount Due

\$1,680.00

Distribution Stamp: Epicor 7.3.6 Distribution Stamp
Authorized By: Jones Tanzanika
Date/Time: 2/14/2011 3:02:11 PM

Company: Chesapeake Utilities
Organization: FC00
Vendor Code: VN000798
Vendor Name: RUTH ASSOCIATES INC
Remit-To Code:
Remit-To Name:
Invoice Number: 1947
Invoice Date: 2/8/2011
Invoice Total: 1,680.00

<u>Organization</u>	<u>Account Code</u>	<u>Account Name</u>	<u>Ref. Code</u>
	<u>Description</u>	<u>Amount</u>	
CU90	CU90MG99960109230	CU90 Corp Sr Mgmt Deal Struc OS Svc	
INDIANTOWN GAS SITE ASSESSMENT		1,680.00	

Distribution Total:: 1,680.00
Difference:: 0.00

Internal Comment

APPROVED
2/14/2011 4:40 PM bkennedy

Ruth Associates, Inc.
 8 East High Point Road
 Stuart, Florida 34996
 (772) 283-0959

Invoice No.
 1964

Client:
 Florida Public Utilities
 1015 Sixth Street NW
 Winter Haven, FL 33882
 Attn: Thomas Geoffroy

Contract:
Project: CUIGC
Terms: Due on recpt
Date: 4/18/2011

Indiantown Gas Company - Billing Period: March, 2011:

Installed three monitoring wells per FDEP requirements. Developed and sampled monitoring wells. Received and reviewed laboratory analysis. Had well locations and elevations surveyed. Discussed progress on Site Assessment with FDEP.

Description	Rate	Quantity	Amount
John R. Mildenberger	140.00	15	2,100.00
D. Rolf Hill	110.00	6	660.00
Peristaltic Pump Daily Rental	50.00	1	50.00
pH/SC/DO Meter w/Flo-Thru Cell Daily Rental	125.00	1	125.00
Water Level Meter Daily Rental	25.00	1	25.00
GCY, Inc. (Survey Monitoring Wells)	655.00		655.00
Markup	5.00%		32.75
Total			687.75
Wombat Environmental (GeoProbe Services/Well Installation)	2,025.00		2,025.00
Markup	5.00%		101.25
Total			2,126.25
Southern Research Laboratories, Inc	1,233.50		1,233.50
Markup	5.00%		61.68
Total			1,295.18

Invoice Received By: CS on 4/22/11
(Initials) (Date)

STINV: YES | NO | NA STPR: YES | NO | NA

Received By: Chaufer

Scanned Date: 4/22/11 PR# 114421

Total Amount Due \$7,069.18

Distribution Stamp: Epicor 7.3.6 Distribution Stamp
Authorized By: Darrington, Courtney
Date/Time: 4/22/2011 11:31:41 AM

Company: Chesapeake Utilities
Organization: FC00
Vendor Code: VN000798
Vendor Name: RUTH ASSOCIATES INC
Remit-To Code:
Remit-To Name:
Invoice Number: 1964
Invoice Date: 4/18/2011
Invoice Total: 7,069.18

<u>Organization</u>	<u>Account Code</u>	<u>Account Name</u>	<u>Ref. Code</u>
	<u>Description</u>	<u>Amount</u>	
CU90	CU90MG99960109230	CU90 Corp Sr Mgmt Deal Struc OS Svc	
INDIANTOWN GAS COMPANY		7,069.18	

Distribution Total:: 7,069.18
Difference:: 0.00

Internal Comment

APPROVED
4/22/2011 1:10 PM bkennedy

Ruth Associates, Inc.
 8 East High Point Road
 Stuart, Florida 34996
 (772) 283-0959

Invoice No.
 1972

Client:
 Florida Public Utilities
 1015 Sixth Street NW
 Winter Haven, FL 33882
 Attn: Thomas Geoffroy

Contract:
 Project: CUIGC
 Terms: Due on recpt
 Date: 5/19/2011

Indiantown Gas Company - Billing Period: April, 2011:
 Site visit to collect a round of water levels. Began preparing Site Assessment report. Obtained two week extension for Site Assessment report.

Description	Rate	Quantity	Amount
John R. Mildenberger	140.00	17.5	2,450.00
<p>Invoice Received By: <u>CA</u> on <u>5/23/11</u> (Initials) (Date)</p> <p>STINV: YES NO NA STPR: YES NO NA</p> <p>Received By: <u>Chayfor</u></p> <p>Scanned Dated: <u>5/23/11</u> PR# <u>170360</u></p>			

Total Amount Due \$2,450.00

Distribution Stamp: Epicor 7.3.6 Distribution Stamp
Authorized By: Bittle Sarah
Date/Time: 5/24/2011 7:51:26 AM

Company: Chesapeake Utilities
Organization: FC00
Vendor Code: VN000798
Vendor Name: RUTH ASSOCIATES INC
Remit-To Code:
Remit-To Name:
Invoice Number: 1972
Invoice Date: 5/19/2011
Invoice Total: 2,450.00

<u>Organization</u>	<u>Account Code</u>	<u>Account Name</u>	<u>Ref. Code</u>
	<u>Description</u>	<u>Amount</u>	
F100	F100-GN740-7230-9230	F100 Gen Consult OS Svc	
INDIANTOWN GAS COMPANY		2,450.00	

Distribution Total:: 2,450.00
Difference:: 0.00

Internal Comment
^ACCT NO PER AL SJB

APPROVED
5/24/2011 12:53 PM bkennedy

Ruth Associates, Inc. of
 8 East High Point Road
 Stuart, Florida 34996
 (772) 283-0959

Invoice No.
 1993

Client:
 Florida Public Utilities
 1015 56th Street NW
 Winter Haven, FL 33882
 Attn: Thomas Geoffroy

Contract:
Project: CUIGC
Terms: Due on receipt
Date: 8/25/2011

Indiantown Gas Company - Billing Period: July, 2011:
 Received comments from FDEP and discussed with Tallahassee. Conducted second groundwater sampling of MW-1 and excavated additional soils from release area. A confirmation sample was collected and submitted to the laboratory for analyses. Excavated soils were disposed of offsite.

Description	Rate	Quantity	Amount
Michele C. Ruth, PE	140.00	2	280.00
John R. Mildenberger	140.00	13	1,820.00
D. Roif Hill	110.00	5	550.00
Shipping			34.92
Supplies (ice)	2.13		2.13
Mileage	0.405	65	26.33
Peristaltic Pump Daily Rental	50.00	1	50.00
pH/SC/DO Meter w/Flo-Thru. Cell, Daily Rental	125.00	1	125.00
SWS Environmental Services (Excavation & Disposal of Soils)	2,463.15		2,463.15
Markup	5.00%		123.16
Total			2,586.31
Southern Research Laboratories, Inc.	683.00		683.00
Markup	5.00%		34.15
Total			717.15

Invoice Received By: JD on 8/29/11
 (Initials) (Date)

STINV: YES | NO | NA STPR: YES | NO | NA

Received By: J. Danford

Scanned Dated: 8/29/11 PR# 181999

Total Amount Due: \$6,191.84

Distribution Stamp: Epicor 7.3.6 Distribution Stamp
Authorized By: Bittle Sarah
Date/Time: 8/30/2011 8:25:08 AM

Company: Chesapeake Utilities
Organization: FC00
Vendor Code: VN000798
Vendor Name: RUTH ASSOCIATES INC
Remit-To Code:
Remit-To Name:
Invoice Number: 1993
Invoice Date: 8/25/2011
Invoice Total: 6,191.84

<u>Organization</u>	<u>Account Code</u>	<u>Account Name</u>	<u>Ref. Code</u>
	<u>Description</u>	<u>Amount</u>	
FI00	FI00GN74072309230	FI00 Gen Consult OS Svc	
INDIANTOWN GAS COMPANY		6,191.84	

Distribution Total:: 6,191.84
Difference:: 0.00

Internal Comment

APPROVED
8/30/2011 9:15 PM bkennedy

Florida Public Utilities Company - Indiantown Division
Docket Number 120311-GU
Responses to Questions 8 through 10
Attachment 8

Per Exhibit MK-1, page 1 of 2

PLANT ACCOUNT	Original Cost @ July 31, 2010	Accum Depr @ July 31, 2010	Net Plant @ July 31, 2010	Purchase Price	Non-Compete Agreement *	Net Closing Payment **	Premium
374 Land - Distribution	\$12,500	\$0	\$12,500	\$12,500	\$0	\$12,500	\$0
390 Structures & Improvements	\$171,895	\$50,000	\$121,895	\$187,500	\$0	\$187,500	\$65,605
Total Real Property - Section 3(b)	\$184,395	\$50,000	\$134,395	\$200,000	\$0	\$200,000	\$65,605
376.01 Natural Gas Mains - Plastic	\$192,545	\$100,663	\$91,882	\$153,077	\$117,956	\$271,034	\$179,152
376.06 Natural Gas Mains - Steel	\$249,316	\$245,535	\$3,781	\$6,299	\$4,854	\$11,153	\$7,372
378 Measuring & Regulating Equipment - General	\$47,982	\$17,338	\$30,644	\$51,053	\$39,340	\$90,394	\$59,750
380.01 Services - Plastic	\$106,771	\$58,625	\$48,146	\$80,212	\$61,809	\$142,021	\$93,875
381 Meters	\$64,830	\$27,000	\$37,830	\$63,025	\$48,565	\$111,591	\$73,761
382 Meter Installations	\$15,792	\$3,402	\$12,390	\$20,642	\$15,906	\$36,548	\$24,158
383 House Regulators	\$20,316	\$6,435	\$13,881	\$23,126	\$17,820	\$40,946	\$27,065
385 Measuring & Regulating Equipment - Industrial	\$99,570	\$66,986	\$32,584	\$54,286	\$41,831	\$96,116	\$63,532
Total Natural Gas Plant and Equipment - Section 3(c)	\$797,122	\$525,984	\$271,138	\$451,721	\$348,082	\$799,803	\$528,665
391.2 Office Furniture	\$27,774	\$13,870	\$13,904	\$22,593	\$17,850	\$40,443	\$26,539
391.4 Computer Equipment	\$13,228	\$3,962	\$9,266	\$15,057	\$11,896	\$26,952	\$17,686
392 Transportation Equipment	\$0	\$0	\$0	\$0	\$0	\$0	\$0
394 Tools, Shop & Garage Equipment	\$13,438	(\$927)	\$14,365	\$23,342	\$18,442	\$41,784	\$27,419
396 Power Operated Equipment	\$25,970	\$7,951	\$18,019	\$29,279	\$23,132	\$52,412	\$34,393
397 Communications Equipment	\$0	\$0	\$0	\$0	\$0	\$0	\$0
398 Other Equipment	\$13,647	\$6,646	\$7,001	\$11,376	\$8,988	\$20,364	\$13,363
399 Computer Software	\$26,589	\$9,755	\$16,834	\$27,354	\$21,611	\$48,965	\$32,131
Total Equipment - Section 3(g)	\$120,646	\$41,257	\$79,389	\$129,001	\$101,918	\$230,919	\$151,530
TOTAL ASSETS PURCHASED	\$1,102,163	\$617,241	\$484,922	\$780,722	\$450,000	\$1,230,722	\$745,800

* Non-Compete Agreement is not allocated to Real Property. Property appraisal was used to determine market value, thus total purchase price.

** Net Closing Payment is reduced by the Liabilities assumed of \$47,412, the net of which is the Purchase Price of \$1,188,305.

Attachment 8b

LEASE AGREEMENT

This Lease Agreement ("**Lease**") is entered into this 6th day of August, 2010, to be effective as of July 31, 2010 (the "**Effective Date**"), between Florida Public Utilities Company, a Florida corporation having an address of 401 S. Dixie Highway, West Palm Beach, Florida 33401 ("**Landlord**"), and Indiantown LP Gas Company, LLC, a Florida limited liability company having an address of P.O. Box 8, Indiantown, Florida 34956 ("**Tenant**").

1) Definitions.

a) "**Premises**" shall mean the land, together with the buildings and improvements thereon, located in Indiantown, FL more particularly described in Schedule A attached hereto and made hereof, subject to the reservation by Landlord of that portion of the Premises housing the Rectifier Equipment (see Section 12).

b) "**Commencement Date**" shall mean July 31, 2010.

c) "**Expiration Date**" shall mean August 1, 2015, which may be adjusted as herein provided.

d) "**Term**" shall mean the period between Commencement Date and Expiration Date.

e) "**Base Rent**" shall be \$12.00 per year or \$1.00 per month, plus applicable sales tax.

f) "**Additional Rent**" means all costs, expenses and other sums that Tenant assumes, agrees or is obligated to pay to Landlord pursuant to this Lease other than Base Rent, including, without limitation, the obligations set forth in Section 6(b) and any sales tax, and late charges and/or interest due Landlord for sums not paid when due.

g) "**Rent**" shall mean Base Rent and Additional Rent, collectively.

h) "**Permitted Use**" shall mean commercial office and storage facility for the operation of Tenant's propane gas distribution business and for the performance of Tenant's obligations under that certain Operations and Maintenance Agreement of even date herewith between Landlord and Tenant.

i) "**Real Estate Taxes**" shall mean collectively all real estate taxes, assessments, special assessments, water rates and charges, sewer rates and charges, including any sum or sums payable for present or future sewer or water capacity, charges or assessments for public utilities/improvements, street lighting, excise levies, licenses, permits, inspection fees, other governmental charges, and all other charges or burdens of whatsoever kind and nature incurred in the use, occupancy, ownership, operation, leasing or possession of the Premises, without particularizing by any known name or by whatever name hereafter called, and whether any of the foregoing be general or special, ordinary or extraordinary, foreseen or unforeseen.

2) Leased Premises. Landlord Leases to Tenant and Tenant hires from Landlord the Premises all in accordance with the provisions of this Lease. This Lease is made subject to such facts as an accurate survey may disclose, easements, rights of way, any restrictions/matters of record and any zoning/land use rules, laws, ordinances or regulations.

3) Lease Term. The Term of this Lease shall commence on the Commencement Date and shall end on the Expiration Date, unless sooner terminated in accordance with this Lease.

4) Use. Tenant hereby covenants and agrees to use the Premises exclusively for the Permitted Use and for no other purpose. Tenant hereby covenants and agrees that Tenant will make no unlawful, improper or offensive use of the Premises. Tenant shall observe all reasonable rules and regulations established by Landlord from time to time. In the event required, Tenant shall be responsible for and shall, at Tenant's sole cost and expense, apply for and obtain any and all permits, licenses, zoning/land use changes, health, safety, occupational, governmental approval or permit, and/or any other approval/permit from any applicable authority for the Premises and the Permitted Use.

5) Rent.

a) Tenant shall pay each monthly installment of Rent in advance on the first calendar day of each month. Monthly installments for any fractional calendar month, at the beginning or end of the Term, shall be prorated based on the number of days in such month. Tenant shall pay all Rent, without abatement, deduction or setoff, and irrespective of any claim Tenant may have against Landlord, and this covenant shall be deemed independent of any other terms, conditions or covenants of this Lease. Rent not paid when due shall bear interest until paid, at the rate of 2% per month, or at the maximum rate allowed by law, whichever is less, from the date when due. Tenant shall also pay a processing charge of \$250.00 with each late payment of Rent. Tenant's statement on a payment check or in a letter accompanying a payment check is not binding on Landlord. Landlord may, with or without notice to Tenant, negotiate such check without being bound to the conditions of any such statement. Landlord's acceptance of full or partial Rent during the continuance of any breach or default by Tenant does not constitute a waiver of any such breach or default. If Tenant pays any amount other than the actual amount due Landlord, receipt or collection of such partial payment does not constitute an accord and satisfaction. Landlord may accept any check for payment from Tenant without prejudice to Landlord's right to recover the balance of any sum due from Tenant under the Lease, or to pursue any other right or remedy provided under this Lease. If all or any portion of any payment is dishonored for any reason, payment will not be deemed made until Landlord actually collects the entire amount due. The foregoing provisions apply in kind to the receipt or collection of any amount by a lock box agent or other person on Landlord's behalf.

b) As Additional Rent (to be included in the definition of Additional Rent), Tenant shall pay to Landlord the following:

i) Real Estate Taxes, on the first (1st) day of each month, in advance, in a sum equal to 1/12th of the Real Estate Taxes due and payable for the then calendar year. If at a time a payment is required the amount of the Real Estate Taxes for the then calendar year shall not be known, Tenant shall pay Landlord, as Additional Rent, 1/12th of the Real Estate Taxes for the preceding calendar year; and upon ascertaining the Real Estate Taxes for the current calendar year, Tenant shall pay Landlord any difference upon demand, or if Tenant shall be entitled to a credit, Landlord shall credit the excess against the next monthly installment(s) of Additional Rent falling due. Real Estate Taxes payable for the first and last years of the Term shall be adjusted and pro rated, so that Landlord shall be responsible for Landlord's pro rated share for the period prior to and subsequent to the Term and Tenant shall pay Landlord its pro rated share for the Term. Provided this Lease is not previously cancelled or terminated, and there shall be no Event of Default, or an event that with the giving of notice or the lapse of time, or both, would constitute an Event of Default, then Tenant may, with the prior consent of

Landlord, contest the amount or validity of any Real Estate Taxes assessed and levied against the Premises, or to seek a reduction in the valuation of the building on the Premises assessed for real estate tax purposes, by appropriate proceedings diligently conducted in good faith (the "Tax Appeal"), but only after payment of such taxes and assessments. Landlord shall not be required to join in any Tax Appeal. Tenant shall pay any increase that may result in Real Estate Taxes as a consequence of the Tax Appeal, which payment obligations shall survive the expiration or earlier termination of this Lease; and

ii) all other sums of money on Tenant's part to be paid pursuant to the terms, covenants and conditions of this Lease.

c) If Tenant shall fail to comply with or to perform any of the terms, conditions and covenants of this Lease, Landlord may (but with no obligation to do so) carry out and perform such terms, conditions and covenants, at the expense of Tenant, which expense shall be payable by Tenant, as Additional Rent, upon the demand of Landlord, together with interest at the rate of 2% per month, or at the maximum rate allowed by law, whichever is less, which interest shall accrue from the date of Landlord's demand.

d) Tenant shall pay Landlord, all reasonable attorneys' fees that may be incurred by Landlord in enforcing Tenant's obligations under this Lease; provided, however, that in the event Landlord commences a suit against Tenant to enforce Tenant's obligations under this Lease, and such suit is tried to conclusion and judgment is entered in favor of Tenant, then in that event Tenant shall not be under any obligation to pay Landlord the attorneys' fees that Landlord may have incurred.

e) Tenant shall pay to Landlord and be responsible for any and all taxes or charges imposed by the State of Florida or the county or municipality in which the Premises is located, pursuant to any future law, which tax or charge shall be based upon the Rent due or paid by Tenant to Landlord. The foregoing shall not require payment by Tenant of any income taxes assessed against Landlord or of any capital levy, franchise, estate, succession, inheritance or transfer tax due from Landlord.

f) It is the intention of the parties that this Lease is a "triple net lease" and Landlord shall receive the Rent, undiminished from all costs, expenses and obligations of every kind relating to the Premises, which shall arise or become due during the Term, all of which shall be paid by Tenant.

g) Rent shall be paid by Tenant to Landlord at S. Dixie Highway, West Palm Beach, Florida 33401 or to such other place as Landlord may notify Tenant.

6) Condition, Repair, Replacement and Maintenance of the Premises.

a) Condition of the Premises. Tenant acknowledges that it has inspected the Premises prior to entering into this Lease, and hereby accepts the Premises in the condition existing on the Effective Date and further acknowledges that Landlord shall have no obligation to make any alterations or installations or otherwise prepare the Premises for Tenant's intended use. Tenant accepts the Premises in its "AS IS" and "WITH ALL FAULTS" condition, with any and all existing defects, and subject to all applicable zoning, municipal, county and state laws, ordinances and regulations governing and regulating the use of the Premises. Tenant acknowledges that neither Landlord nor Landlord's employees, agents or contractors have made any representation or warranty as to the condition of the Premises or the suitability

thereof for the conduct of Tenant's business, and Tenant's determination of the suitability of the Premises for its intended purposes is based solely on its own inspections, and not on any representation or warranty of Landlord, its agents or employees. Tenant enters into the Lease without any representations or warranties on the part of Landlord, express or implied, as to the condition of the Premises, including, but not limited to, the cost of operations and the condition of its fixtures, improvements and systems.

b) Tenant's Obligations.

i) Tenant's Maintenance. Tenant shall, at Tenant's sole cost and expense, maintain, keep in good condition, repair and make replacements, foreseen and unforeseen, ordinary and extraordinary, all structural and non-structural, the exterior of the building(s) of the Premises (including, but not limited to, the roof, roof system, windows and doors) and interior of the building(s) on the Premises (including, but not limited to, the plumbing system, the sprinkler system, if any, the heating system, the air conditioning system, if any, the electric system and any other system of the building(s) on the Premises), and the driveways, parking areas, shrubbery and lawn, on the Premises, and at the expiration or other sooner termination of the Term, deliver them up in good order and condition and broom clean;

ii) Damage Caused by Tenant. Notwithstanding any contrary provisions set forth in this Lease, any damage to the Premises, including, but not limited to, the building(s) or its systems, or the improvements, caused by Tenant or a "Tenant Representative" (as defined below), shall be promptly repaired or replaced to its former condition by Tenant, as required by Landlord, at Tenant's sole cost and expense. The term "**Tenant Representative**" shall mean any shareholder, officer, director, member, partner, employee, agent, licensee, assignee, sublessee or invitee of Tenant, or any third party other than Landlord; and

iii) Tenant to Keep Premises Clean. In addition to the foregoing, and not in limitation of it, Tenant shall also, at Tenant's sole cost and expense, undertake all replacement of all plate glass and light bulbs, florescent tubes and ballasts, and decorating, redecorating and cleaning of the interior of the Premises, and shall keep and maintain the Premises in a clean condition, free from debris, trash, refuse, snow and ice.

c) Tenant's Negative Covenants. Tenant shall not injure, deface, permit waste nor otherwise harm any part of the Premises, permit any nuisance at the Premises, permit the emission of any objectionable noise or odor from the Premises, or place a load on the floor on the Premises exceeding the floor load per square foot the floor was designed to carry.

d) Maintenance/Service Contract. Tenant shall, at Tenant's sole cost and expense, enter into a maintenance/service contract with a maintenance contractor, which shall provide for regularly scheduled servicing of all hot water, heating, ventilation and air conditioning systems and equipment in the Premises. The maintenance contractor and the maintenance/service contract shall be subject to the approval of Landlord, which approval shall not be unreasonably withheld. The maintenance/service contract shall include, without limitation, all servicing suggested by the manufacturer, within the operations/maintenance manual pertaining to such system and/or equipment, and shall be effective (and a copy thereof delivered to Landlord) no later than thirty (30) days after the Commencement Date.

7) Insurance.

a) Insurance Coverage. Tenant shall, during the Term, at Tenant's sole cost and expense, obtain and keep in force, the following insurance:

i) Fire Insurance. An All-Risk Insurance policy covering the Premises and all improvements located therein in an amount of one hundred (100%) percent of the replacement value of the building(s) and all improvements on the Premises other than foundations, and with such deductible as Landlord considers appropriate in Landlord's sole discretion. This insurance shall (A) name only Landlord and Landlord's mortgagees, if any, as their respective interests may appear; (B) provide that no act of Tenant shall impede the right of Landlord or Landlord's mortgagees, if any, to receive and collect the insurance proceeds; and (C) provide that the right of Landlord and Landlord's mortgagees, if any, to the insurance proceeds shall not be diminished because of any insurance carried by Tenant for Tenant's own account. Tenant acknowledges that it has no right to receive any proceeds from such insurance policy. Landlord shall not have to carry insurance of any kind on the Premises or on Tenant's furniture or furnishings, or on any of Tenant's fixtures, equipment, improvements, or appurtenances under this Lease; and Landlord shall not be obligated to repair any damage thereto or replace the same;

ii) Sprinkler Insurance. If sprinklers are installed in the Premises, Tenant shall obtain sprinkler leakage insurance in an amount equal to at least ten percent (10%) of the amount of insurance required to be carried by Tenant pursuant to subparagraph (i) above. This insurance may be included as a part of the All-Risk Insurance policy. This insurance shall (A) name only Landlord and Landlord's mortgagees, if any, as their respective interests may appear; (B) provide that no act of Tenant shall impede the right of Landlord or Landlord's mortgagees, if any, to receive and collect the insurance proceeds; and (C) provide that the right of Landlord and Landlord's mortgagees, if any, to the insurance proceeds shall not be diminished because of any insurance carried by Tenant for Tenant's own account;

iii) Liability Insurance. Comprehensive general liability insurance coverage (either primary and/or umbrella policies), which shall include personal injury, bodily injury, broad form property damage, operations hazard, owner's protective coverage, contractual liability and products and completed operations liability, in limits not less than five million (\$5,000,000.00) Dollars inclusive. This insurance shall insure Landlord and "Landlord's Indemnitees" (as defined below) and Tenant, and such other parties as Landlord may designate, naming each as the insured. Notwithstanding any contrary provisions contained in this paragraph, if any liability insurance policy excludes coverage of any claim made by one insured against another, or any action or suit filed by one insured against another, then Tenant shall deliver to Landlord a separate liability insurance policy, which insures only Landlord and Landlord's Indemnitees and such other parties as Landlord may designate, in accordance with the provisions of this paragraph, and a certificate of insurance evidencing a separate liability insurance policy insuring Tenant in accordance with the provisions of this paragraph. The term "**Landlord's Indemnitees**" shall mean Landlord's affiliates, mortgagees, if any, and their respective officers, shareholders, directors, employees, agents and representatives, as well as the officers, shareholders, directors, employees, agents and representatives of Landlord;

iv) Worker's Compensation and Employer's Liability Insurance. Worker's Compensation and Employer's Liability insurance, in a form and in an amount as required to comply with state law and which shall contain a waiver of subrogation against Landlord; and

v) Additional Insurance. Any other form or forms of insurance as Landlord or Landlord's mortgagees may reasonably require from time to time, in form and amounts, and for insurance risks against which a prudent tenant of a comparable size and in a comparable business would protect itself.

b) Insurance Requirements Generally. All policies shall be taken out with insurers that are acceptable to Landlord and in form satisfactory to Landlord. Tenant agrees that certificates of insurance, or, if required by Landlord or the mortgagees of Landlord, certified copies of each such insurance policy, will be delivered to Landlord as soon as practicable after the placing of the required insurance. Tenant shall, contemporaneously with the execution of this Lease, provide Landlord with a certificate of insurance as written evidence of the insurance in force, and renewals thereof shall be delivered to Landlord at least thirty (30) days prior to the expiration of the respective policy terms. All policies shall contain an undertaking by the insurers to notify Landlord and the mortgagees of Landlord in writing not less than thirty (30) days before any material change, reduction in coverage, cancellation, or other termination thereof.

c) Waiver of Subrogation. To the extent that the parties may legally so agree, neither Landlord nor Tenant shall be liable by way of subrogation or otherwise to the other party, or to any insurance company insuring the other party for any loss or damage to any of the property of Landlord or Tenant, as the case may be, which loss or damage is covered by any insurance policies carried by the parties and in force at the time of any such damage, even though such loss or damage might have been occasioned by the negligence of Landlord or Tenant, and the party hereto sustaining such loss or damage so protected by insurance waives its rights, if any, of recovery against the other party hereto to the extent and amount that such loss is covered by such insurance. This release shall be in effect only so long as the applicable insurance policies shall contain a clause or endorsement to the effect that the aforementioned waiver shall not affect the right of the insured to recover under such policies; Tenant shall use its best efforts (including payment of any additional premium) to have its insurance policies contain the standard waiver of subrogation clause. In the event Tenant's insurance carrier declines to include in such carrier's policy the standard waiver of subrogation clause, Tenant shall promptly notify Landlord in writing.

8) Compliance with Laws and Insurance Requirements.

a) General Compliance with Laws and Requirements. Tenant shall, at Tenant's sole cost and expense, promptly comply with: (i) each and every federal, State of Florida, county and municipal statute, ordinance, code, rule, regulation, order, directive or requirement, currently or hereafter existing, including, but not limited to, the Americans with Disabilities Act of 1990 and all environmental laws, together with all amending and successor federal, State of Florida, county and municipal statutes, ordinances, codes, rules, regulations, orders, directives or requirements, and the common law, regardless of whether such laws are foreseen or unforeseen, ordinary or extraordinary, applicable to the Premises, Tenant, Tenant's use of or operations at the Premises, or all of them, (the "**Requirements**"); (ii) the requirements of any regulatory insurance body; or (iii) the requirements of any insurance carrier insuring the Premises; regardless of whether compliance (X) results from any condition, event or circumstance existing on or after the commencement of the Term; (Y) interferes with Tenant's use or enjoyment of the Premises; or (Z) requires structural or non-structural repairs or replacements. The failure to mention any specific statute, ordinance, rule, code, regulation, order, directive or requirement shall not be construed to mean that Tenant was not intended to comply with such statute, ordinance, rule, code, regulation, order, directive or requirement.

b) Environmental Law.

i) Transaction Triggered Environmental Law. Tenant shall, at Tenant's sole cost and expense, comply with any transaction triggered environmental law (including, without limitation, a law whose applicability is triggered upon sale of the Premises, a cessation of operations at the Premises, a corporate reorganization, or other commercial transaction), the regulations promulgated thereunder, and any amending and successor legislation and regulations now or hereafter existing in the state (the "**Cleanup Law**"). Tenant shall, at Tenant's sole cost and expense, make all submissions to, provide all information to and comply with all requirements of, the applicable state environmental protection or conservation agency enforcing the Cleanup Law. Tenant's obligations under this subparagraph shall arise if any action or omission by Landlord or Tenant triggers the applicability of the Cleanup Law.

ii) Information to Landlord. At no expense to Landlord, Tenant shall promptly provide all information and sign all documents requested by Landlord with respect to compliance with Requirements; however, this shall not in any way be deemed to impose upon Landlord any obligation to comply with any Requirements.

iii) Landlord Audit. Tenant shall permit Landlord and its representatives access to the Premises, from time to time, to conduct an environmental assessment, investigation and sampling of the Premises, at Tenant's expense.

iv) Tenant Audit. Landlord shall have the right, from time to time, during the Term, and upon the expiration or sooner termination of the Term, to require that Tenant hire, and in such event Tenant shall, at Tenant's sole cost and expense, hire an environmental consultant satisfactory to Landlord to undertake sampling at the Premises sufficient to determine whether "Contaminants" (as defined below) have been "Discharged" (as defined below) during the Term.

v) No Installation of Tanks. Tenant shall not install any underground or above ground storage tanks ("**Tanks**") at the Premises without the prior written consent of Landlord, in Landlord's sole discretion, and upon demand of Landlord, shall, prior to the expiration or sooner termination of the Term, remove, at Tenant's own expense, all Tanks installed at the Premises during the Term or by Tenant prior to the Term, and in so doing, Tenant shall comply with all closure requirements and other requirements of Requirements.

vi) Tenant Remediation. Should any assessment, investigation or sampling reveal the existence of any Contaminants in, on, under, or about, or migrating from or onto the Premises as a result of a Discharge during the Term, then, in addition to such event constituting an Event of Default under this Lease, and Landlord having all rights available to Landlord under this Lease and by law by reason of such Event of Default, Tenant shall, at Tenant's sole cost and expense, in accordance with all Requirements, undertake all action required by Landlord and any "Governmental Authority" (as defined below), including, but not limited to, promptly obtaining and delivering to Landlord an unconditional written determination by the applicable environmental protection or conservation agency that there are no Discharged Contaminants present at the Premises or at any other site to which a Discharge originating at the Premises migrated, or that any Discharged Contaminants present at the Premises or that have migrated from the Premises, have been remediated in accordance with all applicable requirements ("**No Further Action Letter**"). In no event shall any of Tenant's remedial action involve engineering or institutional controls, a groundwater classification exception area or well restriction area. Promptly upon completion of all required investigatory and remedial activities, Tenant shall, at

Tenant's sole cost and expense, and to Landlord's satisfaction, restore the affected areas of the Premises from any damage or condition caused by the investigatory or remedial work.

vii) Hold-Over Tenancy. If prior to the expiration or earlier termination of the Term, Tenant fails to remediate all Contaminants pursuant to subparagraph (vi) above, and deliver to Landlord an unconditional No Further Action Letter (the "**Environmental Clearance**"); then upon the expiration or earlier termination of the Term, Landlord shall have the option either to consider the Lease as having ended or treat Tenant as a hold-over tenant in possession of the Premises. If Landlord considers the Lease as having ended, then Tenant shall nevertheless be obligated to promptly obtain and deliver to Landlord the Environmental Clearance, and otherwise fulfill all of the obligations of Tenant set forth in this Section. If Landlord treats Tenant as a hold-over tenant in possession of the Premises, then Tenant shall pay, monthly to Landlord, on the first day of each month, in advance, double the Rent that Tenant would otherwise have paid under the Lease, until such time as Tenant delivers to Landlord the Environmental Clearance, and otherwise fulfills its obligations to Landlord under this Section, and during the hold-over period, all other terms of this Lease shall remain in full force and effect.

viii) Permits. Tenant shall not commence or alter any operations at the Premises prior to: (A) obtaining all permits, registrations, licenses, certificates and approvals from all Governmental Authorities required pursuant to any Requirements; and (B) delivering a copy of each permit, registration, license, certificate and approval to Landlord, together with a copy of the application upon which such permit, registration, license, certificate and approval is based.

ix) Environmental Documents. The term "**Environmental Documents**" shall mean all environmental documentation concerning the Premises, or its environs, in the possession or under the control of Tenant, including but not limited to, plans, reports, correspondence and submissions. During the Term, and subsequently, promptly upon receipt by Tenant or a Tenant Representative, Tenant shall deliver to Landlord all Environmental Documents concerning or generated by or on behalf of Tenant with respect to the Premises, whether during or after the Term, and whether currently or hereafter existing. In addition, Tenant shall promptly notify Landlord of any environmental condition of which Tenant has knowledge, which may exist in, on, under or about, or may be migrating from or onto the Premises.

x) Attendance at Meetings. Tenant shall notify Landlord in advance of all meetings scheduled between Tenant or Tenant's Representatives and any Governmental Authority pertaining to the Premises, and Landlord and Landlord's agents, representatives and employees, including, but not limited to, legal counsel and environmental consultants and engineers, shall have the right, without the obligation, to attend and participate in all such meetings.

xi) Landlord's Right to Perform Tenant's Obligations. Notwithstanding anything to the contrary set forth in this Lease, in the event, pursuant to this Lease, Tenant is required to undertake any sampling, assessment, investigation or remediation with respect to the Premises, then, at Landlord's discretion, Landlord shall have the right (but without any obligation to do so), upon notice to Tenant, from time to time, to perform such activities at Tenant's expense, and all sums incurred by Landlord shall be paid by Tenant, as Additional Rent, upon demand, together with interest at the maximum rate allowed by law, accruing from the date of Landlord's demand.

xii) Interpretation and Definitions.

(1) Interpretation. The obligations imposed upon Tenant under this subparagraph (Environmental Law) are in addition to and are not intended to limit, but to expand upon, the obligations imposed upon Tenant under any other provision of this Lease.

(2) Contaminants. The term "**Contaminants**" shall include, without limitation, any regulated substance, toxic substance, hazardous substance, hazardous waste, pollution, pollutant or contaminant, as defined or referred to in the Resource Conservation and Recovery Act, as amended, 42 U.S.C. §6901 et seq.; the Comprehensive Environmental Response, Compensation and Liability Act, as amended, 42 U.S.C. §9601 et seq.; the Water Pollution and Control Act, 33 U.S.C. §1251 et seq.; analogous state laws; together with any amendments thereto, regulations promulgated thereunder and all substitutions thereof, as well as words of similar purport or meaning referred to in any other federal, State of Florida, county or municipal environmental statute, ordinance, code, rule, regulation, order, directive or requirement, including, without limitation, radon, asbestos, polychlorinated biphenyls, urea formaldehyde and petroleum products and petroleum based derivatives. Where a statute, ordinance, code, rule, regulation, order, directive or requirement defines any of these terms more broadly than another, the broader definition shall apply.

(3) Discharge. The term "**Discharge**" shall mean the releasing, spilling, leaking, leaching, disposing, pumping, pouring, emitting, emptying or dumping of Contaminants at, into, onto or migrating from or onto the Premises, regardless of whether the result of an intentional or unintentional action or omission.

(4) Governmental Authority/Governmental Authorities. The term "**Governmental Authority**" or "**Governmental Authorities**" shall mean the federal, State of Florida, county or municipal government, or any department, agency, bureau or other similar type body obtaining authority therefrom, or created pursuant to any Requirements.

xiii) Survival. This subparagraph (Environmental Law) shall survive the expiration or earlier termination of this Lease. Without limiting any other remedy available to Landlord under this Lease or by Requirements, Tenant's failure to abide by the terms of this Section shall be restrainable or enforceable, as the case may be, by injunction.

9) Alterations, Additions and Improvements. No alterations, additions or improvements shall be made by Tenant to the building(s) and improvements on the Premises, nor to any air conditioning system, heating system, plumbing system, electrical system, nor shall antennas or fixtures be installed in or on the building or improvements to the Premises, without the prior written consent of Landlord, which consent may be granted or withheld by Landlord, in Landlord's sole and absolute discretion. All alterations, additions or improvements and systems installed in or attached to the Premises by Tenant shall, at the option of Landlord, upon the expiration or earlier termination of the Lease, belong to and become the property of Landlord without any payment from Landlord and if such option is exercised, shall be surrendered by Tenant in good order and condition as part of the Premises upon the expiration or sooner termination of the Lease. At Landlord's request, Tenant shall restore the Premises to the condition it was in prior to Tenant's occupancy, such restoration to be completed on or before the expiration of the Lease, at Tenant's sole cost and expense. Tenant shall not use or penetrate the roof of the building(s) on the Premises for any purpose whatsoever without the prior written consent of Landlord, which consent may be granted or withheld by Landlord, in Landlord's sole and absolute discretion. All alterations, additions or improvements consented to

by Landlord shall be performed by Tenant in a good and workmanlike manner, in compliance with all Requirements.

10) Fire and Other Casualty Affecting the Premises.

a) Notice of Casualty by Tenant. If the improvements situated upon the Premises shall be damaged or destroyed by any peril, including, but not limited to, fire, wind storm or other casualty (each such occurrence, a "Casualty"), at any time, whether covered by insurance to be provided by Tenant under this Lease, or not, Tenant shall give prompt notice thereof to Landlord and this Lease shall continue in full force and effect.

b) Restoration by Tenant. If at any time any Casualty occurs, Tenant shall proceed in good faith and with due diligence to restore, replace, rebuild and repair the improvements damaged or destroyed by such Casualty to substantially the same condition such improvements were in immediately prior to such damage or destruction, and Tenant's obligations to pay the Rent and other sums required of Tenant under the Lease shall not be abated or reduced, nor shall Tenant be entitled to surrender possession of the Premises by reason thereof. Notwithstanding anything to the contrary set forth in this Lease, the net insurance proceeds, if any, collected by Landlord from any insurance policy, and not otherwise payable to a mortgagee of Landlord, after deducting all costs of collection (including, but not limited to, the fees of any adjuster employed by Landlord with respect to the collection of any insurance proceeds), (the "Restoration Funds"), shall be available to be used by Tenant for the restoration of the Premises. If the Restoration Fund is Two Hundred Thousand (\$200,000) Dollars or less, the whole thereof shall be paid to Tenant and deposited in trust in a segregated interest bearing account by Tenant, in a financial institution designated by Landlord. If the Restoration Fund is in excess of Two Hundred Thousand (\$200,000.00) Dollars, the Restoration Fund shall continue to be held by Landlord, and provided Tenant complies with the provisions of this paragraph, the Restoration Fund shall be made available to Tenant, from time to time, in the manner and to the extent hereinafter provided, to pay for the costs of the restoration of the Premises; provided, however, that Landlord, before paying such monies over to Tenant, shall be entitled to reimburse itself from the Restoration Fund to the extent, if any, of the expenses paid or incurred by Landlord in the administration of the Restoration Fund and oversight of the restoration, including, without limitation, fees for consultants, counsel and engineers. Any funds left after the completion of and payment for all restoration of the Premises shall be retained by Landlord.

i) Requisitions for Payment. The Restoration Fund shall be paid to Tenant, from time to time, in installments as the restoration work progresses, upon requisitions to be submitted by Tenant to Landlord showing the cost of labor and materials incorporated in the restoration, or incorporated therein since the last previous requisition. If any vendors, mechanics, laborers, or materialman's lien is filed against the Premises, Tenant shall not be entitled to receive any further installment until such lien is satisfied or otherwise discharged.

ii) Amount of Payment. The amount of any installment to be paid to Tenant shall be such proportion of the total Restoration Fund received as the cost of labor and materials theretofore incorporated by Tenant in the restoration bears to the total estimated cost of the restoration by Tenant, less (A) all payments theretofore made to Tenant out of the Restoration Fund and (B) ten (10%) percent of the amount so determined.

iii) Deficiency and Completion. In the event the Restoration Fund is insufficient for the purpose of paying for the restoration, or to the extent any mortgagee shall not permit the insurance proceeds to be used for restoration, Tenant shall nevertheless be required

to make the restoration and pay any additional sums required for the restoration. The restoration shall be deemed complete when the restoration has been completed substantially in accordance with the plans and specifications therefore, as determined by a joint inspection by Landlord and Tenant, and a certificate of occupancy has been issued, allowing the improvements to be used and operated for their intended purpose.

iv) Conditions to Payment. In addition to the foregoing, in no event shall any Restoration Funds be paid until there has been submitted to Landlord:

(1) Architect or Contractor Certificate. A certificate of Tenant's architect or Tenant's contractor stating that the sum then requested to be withdrawn either has been paid by Tenant or is justly due to contractors, subcontractors, materialmen, engineers, architects who have rendered or furnished certain services and materials for the work and giving a brief description of such services and materials and the principal subdivisions or categories thereof and the several amounts so paid or due to each of said persons in respect thereof, and stating in reasonable detail the progress of the work up to the date of said certificate; the sum then requested does not exceed the value of the services and materials described in the certificate; and the balance of the Restoration Funds held by Landlord shall be sufficient upon completion of the restoration to pay for the same in full, and stating in reasonable detail the estimate of the cost of such completion;

(2) Title. There shall be furnished to Landlord an official search, or a certificate of title insurance company reasonably satisfactory to Landlord, or other evidence reasonably satisfactory to Landlord, showing that there has not been filed any vendor's, mechanic's, laborer's or materialman's statutory or other similar lien affecting the Premises, which has not been discharged of record, except as shall be discharged upon payment of the amount then requested to be withdrawn;

(3) No Event of Default. At the time of making such payment, there shall not have been an Event of Default, or an event that with the passage of time or the giving of notice, or both, shall constitute an Event of Default; and

(4) Final Payment. With respect only to the final payment, at the time of making such payment, Tenant shall have substantially completed the restoration as evidenced by a certificate of occupancy or completion, issued by the appropriate Governmental Authority.

c) Failure by Tenant to Commence Restoration. If Tenant shall fail to commence the necessary repairs, replacements or reconstruction required for the restoration of the Premises within forty-five (45) days after receipt by Landlord or Tenant, as the case may be, of the Restoration Funds, or any part thereof, or if Tenant shall have commenced restoration, but shall fail to continue restoration with reasonable diligence, then unless such delay shall have been due to causes beyond the reasonable control of Tenant, Landlord shall have the right, at Landlord's option, following thirty (30) days prior notice to Tenant, to deem such an event as an Event of Default, and in addition to all other rights provided to Landlord under this Lease and by Requirements, Tenant shall promptly pay over to Landlord all Restoration Funds held by Tenant.

11) Assignment and Subletting.

a) Landlord's Consent Required. Tenant shall not voluntarily or by operation of law assign, sublet, mortgage or otherwise transfer or encumber all or any part of Tenant's interest in this Lease or in the Premises without Landlord's prior written consent, which consent may be granted or withheld in Landlord's sole and absolute discretion. Any attempted assignment, subletting, mortgage, transfer or encumbrance without such consent shall be void as against Landlord, and shall constitute an Event of Default by Tenant under this Lease. Any sale of ownership rights in Tenant shall be deemed an assignment in violation of this Lease.

b) No Release of Tenant. Regardless of Landlord's consent or the need under subparagraph (a) to obtain Landlord's consent, no assignment or subletting shall release Tenant from this Lease. Acceptance of Rent from any other person shall not be deemed a waiver by Landlord of any provision of this Lease. Consent to one assignment or subletting shall not be deemed a consent to any subsequent assignment or subletting. In the event of a consent by Landlord to an assignment or subletting, Tenant shall deliver to Landlord a duplicate original of the assignment by Tenant and assumption by Tenant's assignee of Tenant's obligations under this Lease, or a duplicate original of the sublease, as the case may be.

c) Participation by Landlord. In the event of any assignment or sublease involving rent in excess of the Rent required under this Lease ("Excess Rent"), Landlord shall participate in the Excess Rent. Tenant shall promptly pay to Landlord, as Additional Rent, fifty (50%) percent of all such Excess Rent collected from the assignee or subtenant, and shall supply Landlord with a true copy of each assignment or sublease, and in the case of the former, an originally executed assumption by the assignee of all of Tenant's obligations under this Lease.

12) Reservation by Landlord of Use of and Access to the Premises: Rectifier. Prior to entering into this Lease Landlord's successor had installed a rectifier and monitoring equipment related to the rectifier at the Premises (the rectifier, rectifier monitoring equipment and other personal property of Landlord utilized in connection with the rectifier and/or the rectifier monitoring equipment being hereinafter collectively referred to as the "Rectifier Equipment"). Notwithstanding anything to the contrary contained in this Lease, Landlord shall retain the exclusive use of that portion of the Premises housing the Rectifier Equipment throughout the Term and Landlord and its representatives shall be given unlimited access to the Premises for any and all purposes pertaining to the use, maintenance or operation of the Rectifier Equipment from time to time upon reasonable notice to Tenant.

13) Landlord's Right to Inspect and Repair. Landlord or Landlord's agents, employees or representatives, shall have the right to enter into and upon all or any part of the Premises during the Term at all reasonable hours, for the purpose of: (a) examination; (b) determination whether Tenant is in compliance with its obligations under this Lease; or (c) making repairs, alterations, additions or improvements to the Premises, as may be necessary by reason of Tenant's failure to make same after notice to Tenant to do so, except in an emergency. This paragraph shall not be deemed nor construed to create an obligation on the part of Landlord to make any inspection of the Premises or to make any repairs, alterations, additions or improvements to the Premises for its safety or preservation.

14) Landlord's Right to Exhibit Premises. Landlord or Landlord's agents, employees or representatives shall have the right to show the Premises during the Term to persons wishing to purchase or grant fee mortgages on the Premises. Landlord or Landlord's agents, employees or other representatives shall have the right within the last six (6) months of the Term to place

notices on any parts of the Premises, offering the Premises for lease and at any time during the Term, offering the Premises for sale, and Tenant shall permit the signs to remain without hindrance or molestation.

15) Signs. Tenant shall not cause any signs to be placed at the Premises, except of a design and structure and at such places as Landlord shall consent to in writing prior to the installation. If Landlord or Landlord's agents, employees or other representatives wish to remove any such signs in order to make any repairs, alterations, additions or improvements to the Premises, such signs may be removed, but shall be replaced, at Tenant's expense, when the repairs, additions, alterations or improvements shall be completed; however, such provision shall not create an obligation on the part of Landlord to make any repairs, alterations, additions or improvements to the Premises. All signs of Tenant at the Premises shall conform with all municipal ordinances or other laws and regulations applicable to such signs.

16) Landlord not Liable. Landlord shall not be liable for any damage or injury to any person or any property as a consequence of the failure, breakage, leakage or obstruction of water, well, plumbing, septic tank, sewer, waste or soil pipes, roof, drains, leaders, gutters, down spouts or the like, or of the electrical system, gas system, air conditioning system or other system, or by reason of the elements, or resulting from any act or failure to act on the part of Landlord, or Landlord's agents, employees, invitees or representatives, assignees or successors, or attributable to any interference with, interruption of or failure beyond the control of Landlord.

17) Force Majeure. Whenever a period of time is herein prescribed for the taking of any action by Landlord, Landlord shall not be liable or responsible for, and there shall be excluded from the computation of such period of time, any delays due to strikes, lockouts, riots, acts of God, shortages of labor or materials, war, civil commotion, fire or other casualty, catastrophic weather conditions, a court order that causes a delay, governmental laws, regulations, or restrictions, or any other cause whatsoever beyond the control of Landlord (any of the foregoing being referred to an "**Unavoidable Delay**"). Landlord shall use reasonable efforts to notify Tenant not later than ten (10) business days after Landlord knows of the occurrence of an Unavoidable Delay; provided, however, that Landlord's failure to notify Tenant of the occurrence of an event constituting an Unavoidable Delay shall not alter, detract from, or negate its character as an Unavoidable Delay or otherwise result in the loss of any benefit or right granted to Landlord under this Lease.

18) Indemnification and Waiver of Liability. Neither Landlord nor Landlord's Indemnitees shall be liable for and Tenant shall indemnify and save harmless Landlord and Landlord's Indemnitees from and against any and all liabilities, damages, claims, suits, costs (including costs of suit, attorneys' fees and costs of investigation) and actions of any kind, foreseen or unforeseen, arising or alleged to arise by reason of injury to or death of any person or damage to or loss of property, occurring on, in, or about the Premises, or by reason of any other claim whatsoever of any person or party, occasioned, directly or indirectly, wholly or partly: (a) by any act or omission on the part of Tenant or any Tenant Representative; (b) by any breach, violation or non-performance of any covenant of Tenant under this Lease; or (c) by a Discharge of Contaminants during the Term; regardless of whether such liability, claim, suit, cost, injury, death or damage arises from or is attributable to the concurrent negligence, willful misconduct or gross negligence of Landlord or any Landlord Indemnitee. If any action or proceeding shall be brought by or against Landlord or any Landlord Indemnitee in connection with any such liability, claim, suit, cost, injury, death or damage, Tenant, on notice from Landlord or any Landlord Indemnitee, shall defend such action or proceeding, at Tenant's expense, by or through attorneys reasonably satisfactory to Landlord or the Landlord Indemnitee. The provisions of this

paragraph shall apply to all activities of Tenant or any Tenant Representative with respect to the Premises, whether occurring before or after execution of this Lease. Tenant's obligations under this paragraph shall not be limited to the coverage of insurance maintained or required to be maintained by Tenant under this Lease. Neither Landlord nor any Landlord Indemnitee shall be liable in any manner to Tenant or any Tenant Representative for any injury to or death of persons or for any loss of or damage to property, regardless of whether such loss or damage is occasioned by casualty, theft or any other cause of whatsoever nature, including loss or damage caused solely by the negligent, willful misconduct or gross negligence of Landlord or any Landlord Indemnitee. In no event shall Landlord or any Landlord Indemnitee be liable in any manner to Tenant or any Tenant Representative as the result of the acts or omissions of Tenant or a Tenant Representative and all liability therefore shall rest with Tenant. All personal property upon the Premises shall be at the risk of Tenant only, and neither Landlord nor any Landlord Indemnitee shall be liable for any damage thereto or theft thereof, whether or not due in whole or in part to the negligence, willful misconduct or gross negligence of Landlord or any Landlord Indemnitee.

19) Subordination; Attornment.

a) Subordination. This Lease shall be subject and subordinate to any mortgage, deed of trust, trust indenture, assignment of leases or rents or both, or other instrument evidencing a security interest, which may now or hereafter affect any portion of the Premises, or be created as security for the repayment of any loan or any advance made pursuant to such an instrument or in connection with any sale-leaseback or other form of financing transaction and all renewals, extensions, supplements, consolidations, and other amendments, modifications, and replacements of any of the foregoing instruments ("**Mortgage**"), and to any ground lease or underlying lease of the Premises or any portion of the Premises whether presently or hereafter existing and all renewals, extensions, supplements, amendments, modifications, and replacements of any of such leases ("**Superior Lease**"). Tenant shall, at the request of any successor-in-interest to Landlord claiming by, through, or under any Mortgage or Superior Lease, attorn to such person or entity as described below. The foregoing provisions of this subparagraph (a) shall be self-operative and no further instrument of subordination shall be required to make the interest of any lessor under a Superior Lease (a "**Superior Lessor**") or any mortgagee, trustee or other holder of or beneficiary under a Mortgage (a "**Mortgagee**") superior to the interest of Tenant hereunder; provided, however, Tenant shall execute and deliver promptly any certificate or instrument, in recordable form, that Landlord, any Superior Lessor or Mortgagee may request in confirmation of such subordination.

b) Rights of Superior Lessor or Mortgagee. Any Superior Lessor or Mortgagee may elect that this Lease shall have priority over the Superior Lease or Mortgage that it holds and, upon notification to Tenant by such Superior Lessor or Mortgagee, this Lease shall be deemed to have priority over such Superior Lease or Mortgage, whether this Lease is dated prior to or subsequent to the date of such Superior Lease or Mortgage. If, in connection with the financing of the Premises or with respect to any Superior Lease, any Mortgagee or Superior Lessor shall request reasonable modifications of this Lease that do not increase the monetary obligations of Tenant under this Lease, materially increase Tenant's other obligations, or materially and adversely affect the rights of Tenant under this Lease, then Tenant shall make such modifications.

c) Attornment. If at any time prior to the expiration of the Term, any Superior Lease shall terminate or be terminated by reason of a default by Landlord as tenant thereunder or any Mortgagee comes into possession of the Premises or the estate created by any Superior Lease

by receiver or otherwise, Tenant shall, at the election and upon the demand of any owner of the Premises, or of the Superior Lessor, or of any Mortgagee-in-possession of the Premises, attorn, from time to time, to any such owner, Superior Lessor or Mortgagee, or any person or entity acquiring the interest of Landlord as a result of any such termination, or as a result of a foreclosure of the Mortgage or the granting of a deed in lieu of foreclosure, upon the then-executory terms and conditions of this Lease, for the remainder of the term. In addition, in no event shall any such owner, Superior Lessor or Mortgagee, or any person or entity acquiring the interest of Landlord be bound by (i) any payment of Rent for more than one (1) month in advance, or (ii) any security deposit or the like not actually received by such successor, or (iii) any amendment or modification in this Lease made without the consent of the applicable Superior Lessor or Mortgagee, or (iv) any construction obligation, free rent, or other concession or monetary allowance, or (v) any set-off, counterclaim, or the like otherwise available against any prior landlord (including Landlord), or (vi) any act or omission of any prior landlord (including Landlord).

d) Rights Accruing Automatically. The provisions of this Section shall inure to the benefit of any such successor-in-interest to Landlord, shall apply notwithstanding that, as a matter of law, this Lease may terminate upon the termination of any such Superior Lease, and shall be self-operative upon any such demand, and no further instrument shall be required to give effect to such provisions. Tenant, however, upon demand of any such successor-in-interest to Landlord, shall execute, from time to time, instruments in confirmation of the foregoing provisions of this paragraph, reasonably satisfactory to any such successor-in-interest to Landlord, acknowledging such attornment and setting forth the terms and conditions of its tenancy.

e) Limitation on Rights of Tenant. As long as any Superior Lease or Mortgage shall exist, Tenant shall not seek to terminate this Lease by reason of any act or omission of Landlord until Tenant shall have given written notice of such act or omission to all Superior Lessors and Mortgagees at such addresses as shall have been furnished to Tenant by such Superior Lessors and Mortgagees and, if any such Superior Lessor or Mortgagee, as the case may be, shall have notified Tenant within ten (10) business days following receipt of such notice of its intention to remedy such act or omission, until a reasonable period of time shall have elapsed following the giving of such notice (but not to exceed sixty (60) days), during which period such Superior Lessors and Mortgagees shall have the right, but not the obligation, to remedy such act or omission. The foregoing shall not, however, be deemed to impose upon Landlord any obligations not otherwise expressly set forth in this Lease.

20) Condemnation.

a) Permanent Condemnation.

i) Lease Termination. If all or any portion of the Premises is taken under the power of eminent domain, or sold under the threat of the exercise of the power (both called "Condemnation"), this Lease shall terminate as to the part taken as of the first date the condemning authority takes either title or possession. If more than twenty-five (25%) percent of the leasable area of the Premises is taken or the balance of the Premises is unfit for Tenant's use, in Landlord's reasonable opinion, Tenant has the option to terminate this Lease as of the date the condemning authority takes possession. The option shall be exercised in writing as follows:

(1) Notice of Taking, within thirty (30) days after Landlord or the condemning authority has given Tenant written notice of the taking; or

(2) Possession, absent notice, within ten (10) days after the condemning authority has taken possession.

If Tenant does not terminate, this Lease shall remain in full force and effect as to the portion of the Premises remaining. The Base Rent shall be reduced in the same proportion as the area of the Premises taken bears to the entire area leased hereunder.

ii) Award. Any award for Condemnation is Landlord's, whether the award is made as compensation for diminution in value of the leasehold or for the taking of the fee, or as severance damages. If this Lease is not terminated, Landlord shall diligently repair any damage to the Premises caused by such Condemnation, subject to delays due to Force Majeure.

b) Temporary Condemnation. Upon condemnation of all or any portion of the Premises for temporary use, this Lease shall continue without change or abatement in Tenant's obligations, as between Landlord and Tenant. Tenant is entitled to the award made for the use. If the Condemnation extends beyond the Term, the award shall be prorated between Landlord and Tenant as of the expiration of the Term. Tenant is responsible, at its sole cost and expense, for performing any restoration work required to place the Premises in the condition it was in prior to Condemnation, unless the release of the Premises occurs after termination. In such case, Tenant shall assign to Landlord any claim it may have against the condemning authority for the cost of restoration, and if Tenant has received restoration funds, it shall give the funds to Landlord within ten (10) days after demand.

21) Bankruptcy or Insolvency of Tenant.

a) Landlord's Right to Terminate Lease. If Tenant is the subject of an Order for Relief under the existing or any future Federal Bankruptcy Code or law, as amended or modified (the "**Bankruptcy Code**"), or if Tenant files a petition or if a petition is filed against Tenant, under the Bankruptcy Code, then, in addition to any such event constituting an Event of Default under this Lease, and Landlord having all rights as a result thereof, Landlord shall have the option to either re-enter and re-possess the Premises pursuant to the provisions of the Lease or to terminate the Lease, pursuant to the provisions of the Lease, or both.

b) Tenant's Filing of Chapter 7 Proceedings. If a petition is filed by, or an order for relief is entered against, Tenant under Chapter 7 of the Bankruptcy Code, and the Trustee of Tenant (the "**Trustee**") elects to assume the Lease for the purpose of assigning it, the election or assignment, or both, may be made only if all of the provisions of subparagraphs (c) and (e) below are satisfied. Nothing in the preceding sentence shall be deemed to grant the Trustee any right to assume the Lease if it has been terminated theretofore. If the Trustee fails to elect to assume the Lease for the purpose of assigning it within sixty (60) days after the Trustee's appointment, the Lease shall be deemed to have been rejected by the Trustee. Landlord shall then immediately become entitled to possession of the Premises, without any further obligation to Tenant or the Trustee, and the Lease shall automatically terminate at the end of the sixty (60) day period, but Landlord's right to compensation for damages in the bankruptcy proceedings shall survive. In such case, Landlord shall be entitled to recover from Tenant, as damages, an amount equal to the Base Rent and Additional Rent reserved under the Lease from the date of the automatic termination to the expiration date of the Lease, and the damages shall be due and payable to Landlord immediately.

c) Tenant's Filing of Chapter 11 or 13 Proceedings. If Tenant files a petition for reorganization under Chapters 11 or 13 of the Bankruptcy Code, or a proceeding that is filed by or against Tenant under any other chapter of the Bankruptcy Code is converted to a Chapter 11 or 13 proceeding and the Trustee or Tenant as a debtor-in-possession ("**Debtor-in-Possession**") fails to assume the Lease within sixty (60) days from the date of filing the petition or the conversion, the Trustee or the Debtor-in-Possession shall be deemed to have rejected the Lease and the Lease shall automatically terminate at the expiration of the sixty (60) day period, but Landlord's right to compensation for damages in the bankruptcy proceedings shall survive. Nothing in the preceding sentence shall be deemed to grant the Trustee or the Debtor-in-Possession any right to assume the Lease if it has been terminated theretofore. In such a case, Landlord shall be entitled to recover from Tenant, as damages, an amount equal to the Base Rent and Additional Rent due under the Lease from the date of the automatic termination to the expiration date of the Lease, and the damages shall be due and payable to Landlord immediately. In order to assume the Lease, the Trustee or the Debtor-in-Possession shall notify Landlord of the election to assume within the sixty (60) day period, but in such event all of the following conditions, which Landlord and Tenant acknowledge are commercially reasonable, must be satisfied by the Trustee or the Debtor-in-Possession to the extent Landlord determines, in Landlord's sole discretion:

i) Adequate Assurances. The Trustee or the Debtor-in-Possession cures, or provides "Adequate Assurance" (as defined below) to Landlord, that the Trustee or the Debtor-in-Possession can cure all monetary Events of Default under the Lease by full and complete payment, within ten (10) days from the date of the assumption, and that the Trustee or the Debtor-in-Possession cures all non-monetary Events of Default under the Lease within thirty (30) days from the date of the assumption;

ii) Landlord Compensation. The Trustee or the Debtor-in-Possession compensates Landlord, or provides Adequate Assurance to Landlord, that within ten (10) days from the date of the assumption, Landlord shall be compensated by full and complete payment for any pecuniary loss Landlord suffers as a result of any Event of Default of Tenant, the Trustee or the Debtor-in-Possession, as set forth in Landlord's notice (which contains a statement of Landlord's pecuniary loss), given to the Trustee or the Debtor-in-Possession; and

iii) Future Performance. The Trustee or the Debtor-in-Possession provides Landlord with Adequate Assurance of the future performance of Tenant's obligations under the Lease, including, without limitation, depositing with Landlord, as security, in addition to that previously established pursuant to the provisions of the Lease, an amount equal to three (3) monthly installments of Base Rent and Additional Rent then accruing under the Lease.

For purposes of this subparagraph (c), "**Adequate Assurance**" shall mean that (i) Landlord determines that the Trustee or Debtor-in-Possession has, and shall continue to have, sufficient unencumbered assets after the payment of all secured obligations and administrative expenses to assure Landlord that the Trustee or the Debtor-in-Possession has sufficient funds to fulfill Tenant's obligations under the Lease; and (ii) an order was entered segregating sufficient sums payable to Landlord, or a valid and perfected lien and security interest are granted to Landlord in the property of Tenant, Trustee or the Debtor-in-Possession, as may be acceptable to Landlord, to secure the obligations of the Trustee or the Debtor-in-Possession to cure the monetary or non-monetary defaults under the Lease within the time periods set forth above.

d) Landlord's Right to Terminate Lease on Further Filing of Bankruptcy Petition. If the Lease is assumed by the Trustee or Debtor-in-Possession pursuant to subparagraph (c) above, and thereafter Tenant is the subject of an Order for Relief under the Bankruptcy Code, then Landlord has the option to terminate the Lease pursuant to the provisions of the Lease.

e) Condition Upon Assignment. If the Trustee or Debtor-in-Possession pursuant to subparagraphs (b) and (c) above desires or elects to assign Tenant's interest, or the estate created by the interest under the Lease, to any other person, the interest or estate may be assigned only if Landlord acknowledges in writing that the intended assignee has provided to Landlord, Adequate Assurance (as defined above) of future performance of all of the obligations of Tenant under the Lease. For the purpose of this subparagraph (e), "**Adequate Assurance**" shall mean that Landlord ascertains that the following conditions are satisfied:

i) Financial Information. The assignee has submitted to Landlord a current financial statement, audited by a certified public accountant, that shows a net worth and working capital in amounts determined by Landlord to be sufficient to assure the future performance by the assignee of Tenant's obligations under the Lease; and

ii) Guaranty. If requested by Landlord, the assignee has obtained guarantees, in form and substance satisfactory to Landlord, from one or more persons who satisfy Landlord's standards of credit-worthiness.

f) State Law Action. Neither Tenant's interest in the Lease nor any estate of Tenant created in the Lease shall pass to any trustee, receiver, assignee for the benefit of creditors, or any other person or entity, or otherwise by operation of law under the laws of any State having jurisdiction of the person or property of Tenant ("**State Law**"), unless Landlord consents in writing to this transfer. Landlord's acceptance of rent or any other payments from any trustee, receiver, assignee, person, or other entity shall not be deemed to have waived, or waive, the need to obtain Landlord's consent or Landlord's right to terminate this Lease for any transfer of Tenant's interest under this Lease without that consent, and any such event, without Landlord's written consent, shall be deemed an Event of Default.

g) Charges for Use and Occupancy. When, pursuant to the Bankruptcy Code, the Trustee or the Debtor-in-Possession is obligated to pay reasonable use and occupancy charges for the use of the Premises, the charges shall not be less than the Base Rent and Additional Rent due under the Lease.

22) Landlord's Right to Re-Enter. If Tenant shall default in any of the terms, conditions or covenants of this Lease, then it shall be lawful for Landlord to re-enter the Premises and to again possess and enjoy the Premises.

23) Default by Tenant and Landlord's Remedies.

a) Event of Default. If any one or more of the following events shall occur and be continuing beyond the period set forth in any default notice provided to be given, an "**Event or Events of Default**" shall have occurred under this Lease:

i) Non-Payment. If Tenant shall fail to pay any installment of Base Rent, Additional Rent or other sums due from Tenant to Landlord under this Lease; or

ii) Non-Performance. If Tenant shall fail to comply with any of the other terms, covenants, conditions or obligations of this Lease and such failure in compliance shall continue for ten (10) days after delivery of notice from Landlord to Tenant specifying the failure, or, if such failure cannot with due diligence be remedied within ten (10) days, Tenant shall not, in good faith have commenced within said ten (10) day period to remedy such failure and continued diligently and continuously thereafter to prosecute the same to completion; or

iii) Vacation or Abandonment. If Tenant shall vacate or abandon the Premises.

b) Right to Terminate Lease and Re-Enter. Landlord may, in addition to any other remedy available to Landlord under this Lease or available under Requirements, at Landlord's option, on 10 days' notice to Tenant, declare this Lease terminated at the expiration of such 10 day period and Tenant shall quit and surrender possession of the Premises, but Tenant shall remain liable to Landlord as hereinafter provided, and upon Tenant's failure to surrender of possession, Landlord may re-enter the Premises by summary proceeding or otherwise free from any estate or interest of Tenant therein.

c) Landlord's Right to Restore and Re-Let, and Tenant's Liability for Expenses. In the event that Landlord shall obtain possession by re-entry, legal or equitable actions or proceedings or other lawful means as a result of an Event of Default by Tenant, Landlord shall have the right, without the obligation, to make renovations, alterations and repairs to the Premises required to restore them to the condition the same should be during the term of the Lease, and to re-let the Premises or any part thereof for a term or terms that may be less or more than the full term of the Lease had Landlord not re-entered and re-possessed or terminated the Lease, and Landlord may grant reasonable concessions in the re-renting to a new tenant, without affecting the liability of Tenant under the Lease. Landlord shall in no way be responsible for any failure to re-let all or any part of the Premises or for any failure to collect any rent due after any re-letting, and in no event shall Tenant be entitled to any surplus rents collected. Any of the foregoing action taken or not taken by Landlord shall be without waiving any rights that Landlord may otherwise have under Requirements or pursuant to the terms of this Lease. Tenant shall pay Landlord all legal and other expenses incurred by Landlord in terminating this Lease by reason of an Event of Default, in obtaining possession of the Premises, in making all alterations, renovations and repairs and in paying the usual and ordinary commissions for re-letting the same, together with interest thereof at the Prime Rate, which interest shall accrue from the date of Landlord's demand.

d) Survival Covenant - Liability of Tenant after Re-Entry and Possession or Termination.

i) Survival of Obligations. If any Event of Default occurs (whether or not this Lease shall be terminated as a result of an Event of Default), Tenant shall remain liable to Landlord for all Base Rent and Additional Rent herein reserved (including, but not limited to, the expenses to be paid by Tenant pursuant to the provisions of this Lease); less the net amount of rent, if any, that shall be collected and received by Landlord from the Premises, for and during the remainder of the term of this Lease. In addition, Landlord may, from time to time, without terminating this Lease, as agent for Tenant, re-let the Premises or any part thereof for such term or terms, at such rental or rentals, and upon such other terms and conditions as Landlord may deem advisable, in accordance with the provisions of subparagraph (c) above. The failure or refusal of Landlord to re-let the Premises or any part thereof shall not release Tenant or affect Tenant's liability for damages. Landlord shall have the right, without the obligation, following re-

entry and possession or termination, to apply any rentals received by Landlord in the following order: (i) to the payment of indebtedness or costs other than rent or damages; (ii) to the payment of any cost of re-letting; (iii) to the payment of any cost of altering or repairing the Premises; (iv) to the payment of Base Rent and Additional Rent, or damages, as the case may be, due and unpaid hereunder; and (v) the residue, if any, shall be held by landlord and applied for the payment of future Base Rent and Additional Rent, or damages, as the case may be, as the same may become due and payable hereunder. Landlord may sue periodically for and collect the amount that may be due pursuant to the provisions of this paragraph, and Tenant expressly agrees that any such suit shall not bar or in any way prejudice the rights of Landlord to enforce the collection or the amount due at the end of any subsequent period by a like or similar proceeding. The words "re-entry" and "re-enter," as used herein, shall not be construed as limited to their strict legal meaning.

ii) Rights on Termination. Should Landlord terminate this Lease by reason of an Event of Default, then Landlord shall thereupon have the right, without the obligation, as an alternative to suing Tenant periodically pursuant to the provisions of subparagraph (i) above, to recover from Tenant the difference, if any, at the time of such termination, between the amount of Base Rent and Additional Rent reserved herein for the remainder of the term over the then reasonable rental value of the Premises for the same period both discounted to present value at the rate than being given prime loans minus one point. Landlord shall not, by any re-entry or other act, be deemed to have terminated this Lease, unless Landlord shall notify Tenant in writing, that Landlord has elected to terminate the same.

iii) Remedies Cumulative. The remedies of Landlord specified herein shall be cumulative as to each other and as to all such allowed by Requirements.

e) Right to Injunction. In the event of a breach or threatened breach by Tenant of any of the covenants or provisions hereof, Landlord shall have the right of injunction and the right to invoke any remedy allowed at law or in equity as if re-entry, summary proceedings and other remedies were not herein provided for. Mention in this Lease of any particular remedy shall not preclude Landlord from any other remedy, in law or in equity. Tenant hereby expressly waives any and all rights of redemption granted by or under any present or future laws in the event of Tenant being evicted or dispossessed for any cause, or in the event of Landlord obtaining possession of the Premises, by reason of the violation by Tenant of any of the covenants and conditions of this Lease, or otherwise.

24) Tenant's Trade Fixtures and Removal. Any trade equipment, trade fixtures, goods or other property of Tenant shall be removed by Tenant on or before the expiration of the Term or sooner termination of the Lease. Any trade equipment, trade fixtures, goods or other property of Tenant not removed by Tenant on the expiration of the Term or sooner termination of the Lease, or upon any deserting, vacating or abandonment of the Premises by Tenant, or upon Tenant's eviction, shall, at Landlord's discretion, be considered as abandoned and Landlord shall have the right (without any obligation to do so), without notice to Tenant, to sell or otherwise dispose of Tenant's property, at the expense of Tenant, and Landlord shall not be accountable to Tenant for any proceeds of the sale, or for any damage or loss to Tenant's property.

25) Estoppel Certificate. Within ten (10) days of request from Landlord, Tenant shall execute, acknowledge and deliver to Landlord, a written instrument certifying (i) that this Lease has not been modified and is in full force and effect, or if there has been a modification, that the Lease is in full force and effect as modified, stating the modification; (ii) specifying the dates to which rent and other sums due from Tenant under this Lease have been paid; (iii) stating whether or not to

the knowledge of Tenant, Landlord is in default, and if so, the reasons for the default; and (iv) stating the commencement date of the Term.

26) Limitations on Landlord's Liability. Notwithstanding any provision of this Lease to the contrary, Tenant agrees that it shall look only to the Premises (which includes all of Landlord's equity or interest therein, including proceeds of sale, insurance and condemnation) in seeking to enforce any obligations or liabilities whatsoever of Landlord under this Lease or to satisfy a judgment (or any other charge, directive or order) of any kind against Landlord; and Tenant shall not look to the property or assets of any of the any officers, directors, shareholders (or principal or partner of any non-corporate Landlord), employees, agents, or legal representatives of Landlord in seeking to enforce any obligations or liabilities whatsoever of Landlord under this Lease or to satisfy a judgment (or any other charge, directive or order) of any kind against Landlord, and in no event shall any deficiency judgment be sought or obtained against Landlord. No person who is an officer, director, shareholder (or principal or partner of any non-corporate Landlord), employee, agent, or legal representative of Landlord shall be personally liable for any obligations or liabilities of Landlord under this Lease.

27) Services and Utilities. Tenant shall, at Tenant's own expense, obtain all utility services supplying the Premises, including but not limited to electricity, water, sewer, standby water for sprinkler, gas, telephone and all other utilities and other communication services, in its own name, effective as of the commencement of the Lease, and shall pay the cost directly to the applicable utility, including any fine, penalty, interest or cost that may be added thereto for non-payment thereof.

28) Qualification in Florida. Tenant represents and warrants to Landlord that it has qualified with the Secretary of State of Florida to do business in the State of Florida.

29) Notices. All notices, consents, demands, communications or approvals required or permitted by this Lease shall be in writing and shall be delivered personally or delivered by certified or registered mail, return receipt requested, addressed as follows:

If to Landlord: Florida Public Utilities Company
c/o Chesapeake Utilities Corporation
909 Silver Lake Boulevard
Dover, Delaware 19904
Attn: Beth Cooper
Fax: 302.734.6750

With a copy to: Florida Public Utilities Company
401 S. Dixie Highway
West Palm Beach, Florida 33401

Attn: Barry Kennedy

Fax: 561.838.8562

With a copy to:

Baker & Hostetler LLP

2300 SunTrust Center

200 S. Orange Avenue

Orlando, Florida 32801

Attn: Jeffrey E. Decker

Fax: 407.841.0168

If to Tenant:

Indiantown LP Gas Company, LLC

P.O. Box 8

Indiantown, Florida 34956

Attn: Brian Powers

Fax: 772.597.2068

Any party may change its facsimile number or address for notices under this Agreement at any time by giving the other parties notice of such change. Landlord and Tenant may, by notice given in the same manner set forth above, designate a different address to which subsequent notices shall be sent. Notice shall be deemed given when delivered, if delivered personally or by reputable overnight delivery service that provides proof of delivery, or when mailed if sent by certified or registered mail, return receipt requested.

30) Broker. Each party represents and warrants to the other no real estate broker was instrumental in effecting this Lease. Tenant shall indemnify and defend Landlord from the claim of any broker, that such broker was authorized on behalf of Tenant to make an offer to Landlord with respect to this transaction.

31) Tenant's Right to Quiet Enjoyment. Upon paying the rents and other sums required of Tenant under the Lease and faithfully and fully performing the terms, conditions and covenants of the Lease on Tenant's part to be performed, Tenant shall peaceably and quietly have, hold and enjoy the Premises for the Term.

32) Miscellaneous.

a) Validity of Lease. The provisions of this Lease are severable. If any provision of the Lease is adjudged to be invalid or unenforceable by a court of competent jurisdiction, it shall not affect the validity of any other provision of this Lease.

b) Non-Waiver by Landlord. The rights, remedies, options or elections of Landlord in this Lease are cumulative, and the failure of Landlord to enforce performance by Tenant of any provision of this Lease applicable to Tenant, or to exercise any right, remedy, option or election, or the acceptance by Landlord of the Rent from Tenant after any default by Tenant, in any one or more instances, shall not act as a waiver or a relinquishment at the time or in the future, of Landlord of such provisions of this Lease, or of such rights, remedies, options or elections, and they shall continue in full force and effect.

c) Entire Agreement. This Lease contains the entire agreement between the parties. No representative, agent or employee of Landlord has been authorized to make any representations, warranties or promises with respect to the letting, or to vary, alter or modify the provisions of this Lease. No additions, changes, modifications, renewals or extensions of this Lease, shall be binding unless reduced to writing and signed by both parties.

d) Effective Law. This Lease shall be governed by, construed and enforced in accordance with the laws of the State of Florida without giving effect to its principles of conflicts of law. Landlord and Tenant waive their right to trial by jury in any action, proceeding or counterclaim brought by either of the parties against the other, or with respect to any issue or defense raised therein, on any matters whatsoever arising out of or in any way connected with this Lease, the relationship of Landlord and Tenant, Tenant's use and occupancy of the Premises, including summary proceedings and possession actions, and any emergency statutory or other statutory remedy.

e) Commercial Lease. This Lease shall be construed as a commercial Lease.

f) Captions. The captions of the paragraphs in this Lease and the Table of Contents are for reference purposes only and shall not in any way affect the meaning or interpretation of this Lease.

g) Counterparts. This Lease may be executed in one or more counterparts, each of which shall be an original, and all of which constitutes one and the same Lease. The parties hereto agree that this Lease may be executed and transmitted electronically to the other party and that the executed copy shall be binding and enforceable as an original.

h) Landlord's Performance of Tenant's Obligations. The performance by Landlord of any obligation required of Tenant under this Lease shall not be construed to modify this Lease, nor shall it create any obligation on the part of Landlord with respect to any performance required of Tenant under this Lease, whether Landlord's performance was undertaken with the knowledge that Tenant was obligated to perform, or whether Landlord's performance was undertaken as a result of mistake or inadvertence.

i) Remedies and Rights Not Exclusive. No right or remedy conferred upon Landlord shall be considered exclusive of any other right or remedy, but shall be in addition to every other right or remedy available to Landlord under this Lease or by law. Any right or remedy of Landlord, may be exercised from time to time, and as often as the occasion may arise. The

granting of any right, remedy, option or election to Landlord under this Lease shall not impose any obligation on Landlord to exercise the right, remedy, option or election.

j) Inspection, Length of Time of Tenant's Default. Nothing in this Lease requires Landlord at any time, to inspect the Premises to determine whether Tenant is in default of Tenant's obligations under this Lease. Any default by Tenant of the provisions of this Lease for any length of time, and whether Landlord has direct or indirect knowledge or notice of the default, is not a waiver of Tenant's default by Landlord, and Landlord has the right to declare Tenant in default, notwithstanding the length of time the default exists.

k) Surrender. Neither the acceptance of keys to the Premises nor any other act or thing done by Landlord or any agent, employee or representative of Landlord shall be deemed to be an acceptance of a surrender of the Premises, excepting only an agreement in writing, signed by Landlord, accepting or agreeing to accept a surrender of the Premises.

l) Drafting Ambiguities; Interpretation. In interpreting any provision of this Lease, no weight shall be given to nor shall any construction or interpretation be influenced by the fact that counsel for one of the parties drafted this Lease, each party recognizing that it and its counsel have had an opportunity to review this Lease and have contributed to the final form of this Lease. Unless otherwise specified, the words "include" and "including" and words of similar import shall be deemed to be followed by the words "but not limited to" and the word "or" shall be "and/or."

m) References. In all references to any persons, entities or corporations, the use of any particular gender or the plural or singular number is intended to include the appropriate gender or number as the text of this Lease may require.

n) Binding Effect. This Lease is binding upon and shall inure to the benefit of the parties, their legal representatives, successors and permitted assigns.

o) Landlord Defined. The term "Landlord" in this Lease means and includes only the owner at the time in question of the Premises and, in the event of the sale or transfer of the Premises, Landlord shall be released and discharged from the provisions of this Lease thereafter accruing, but such provisions shall be binding upon each new owner of the Premises while such party is an owner.

p) Time of the Essence. Time is of the essence of this Lease.

q) No Recordation. Neither this Lease, nor any memorandum, affidavit or other writing with respect to this Lease, shall be recorded by Tenant or by anyone acting through, under or on behalf of Tenant, and the recording thereof in violation of this provision shall make this Lease voidable at Landlord's election.

r) Terrorism/Governmental Action. Tenant warrants and represents to Landlord that Tenant is not, and shall not become, a person or entity with whom Landlord is restricted from doing business under regulations of the Office of Foreign Asset Control ("OFAC") of the Department of the Treasury (including, but not limited to, those named on OFAC'S Specially Designated and Blocked Persons list) or under any statute, executive order (including, but not limited to, the September 24, 2001, Executive Order Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism) or other

governmental action, and is not and shall not knowingly engage in any dealings or transaction or otherwise knowingly be associated with such persons or entities.

s) Radon Gas. Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from the county public health unit.

[Signature page follows.]

IN WITNESS WHEREOF, the Landlord and Tenant have hereunto set their hands and seals, to be effective as of the Effective Date.

Witnesses:

Michael J. McCarty
Print Name: Michael J. McCarty

Randy M. Taylor
Print Name: Randy M. Taylor

LANDLORD:
FLORIDA PUBLIC UTILITIES COMPANY

By: Thomas A. Geoffroy
Name: Thomas A. Geoffroy
Title: Vice President

TENANT:
INDIANTOWN LP GAS COMPANY, LLC

Print Name: _____

Print Name: _____

By: _____
Name: _____
Title: _____

IN WITNESS WHEREOF, the Landlord and Tenant have hereunto set their hands and seals, to be effective as of the Effective Date.

Witnesses:

LANDLORD:
FLORIDA PUBLIC UTILITIES COMPANY

Print Name: _____

By: _____
Name: Thomas A. Geoffroy
Title: Vice President

Print Name: _____

TENANT:
INDIANTOWN LP GAS COMPANY, LLC

Kim Beach
Print Name: KIM BEACH

By: *[Signature]*
Name: BALIAA POWERS
Title: PRESIDENT

Colette Powers
Print Name: COLETTE POWERS

Schedule A

Legal Description

Lot 6, BARKDULL GARDENS SUBDIVISION, according to the plat thereof, as recorded in Plat Book 2, Page 33, Public Records of Martin County, Florida;

Less and except the following:

Commence at the found Brass Disc in Concrete marking the Northwest corner of said Section 6, Township 40 South, Range 39 East; thence South 00°06'40" West along the West line of said Section 6, a distance of 154.83 feet to the Baseline of Survey for State Road 710 (Warfield Boulevard); thence South 73°51'38" East, along said Baseline of Survey, a distance of 179.31 feet to the beginning of a curve concave Southwesterly having a chord bearing of South 63°45'46" East, having a radius of 1506.28 feet; thence Southeasterly along said curve, an arc distance of 530.94 feet through central angle of 20°11'45" to the end of said curve; thence South 53°39'53" East along said Baseline of survey, a distance of 172.55 feet; thence South 36°20'07" West, perpendicular to said Baseline of Survey, a distance of 50.00 feet to the Southerly existing right of way line for State Road 710 (Warfield Boulevard), said point being the POINT OF BEGINNING; thence South 53°39'53" East, along said Southerly existing right of way line, a distance of 135.50 feet; thence South 36°20'07" West along the Easterly line of said Lot 6, a distance of 11.00 feet; thence North 53° 39'53" West, a distance of 135.50 feet, thence North 36°20'07" East along the Westerly line of said Lot 6, a distance of 11.00 feet to the POINT OF BEGINNING.

Florida Public Utilities Company - Indiantown Division
Docket Number 120311-GU
Responses to Question 11
Attachment 11

Payment at Closing

Closing Payment per Closing Statement	\$1,239,055	
Less: First Month payment - Consulting Agreement	<u>\$8,333</u>	Not part of purchase price
Net Closing Payment - Asset Purchase	\$1,230,722	Total value of all IGC assets purchased
Less: Assumed Liabilities	<u>\$42,417</u>	Reduced cash outlay for liabilities assumed
Purchase Price	<u><u>\$1,188,305</u></u>	Amount paid for IGC

Agreement

Section 3 (b) - Real Property	\$200,000	Building & Land
Section 3 (c) - Natural Gas Plant and Equipment	\$451,721	Distribution Plant
Section 3 (g) - Equipment	\$129,001	General Plant
Cash Paid - Non-Compete Agreements */Purchase Price	<u>\$450,000</u>	Allocated to Dist Plant and General Plant only
Net Closing Payment - Asset Purchase	\$1,230,722	Total value of all IGC assets purchased
Less: Assumed Liabilities	<u>\$42,417</u>	Reduced cash outlay for liabilities assumed
Purchase Price	<u><u>\$1,188,305</u></u>	Amount paid for IGC

Purchase Price per Exhibit MK-1	<u><u>\$1,188,305</u></u>
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FMV Assessment

FMV of Assets Acquired per Valuation Exhibit MK-2	<u><u>\$1,211,965</u></u>
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* Non-compete has no "value", thus paid to purchase assets, structured as noncompete for seller purpose.