

**LICENSE AGREEMENT**  
**PURSUANT TO ONG FRANCHISE ORDINANCE**  
**TO AUTHORIZE THE RECEIPT OF TRANSPORT GAS**

Pursuant to this **License Agreement**, made and entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 2008, The City of Oklahoma City, Oklahoma (“City” or “Licensor”) and \_\_\_\_\_ (“Transport Customer” or “Licensee”), agree as follows,

**WITNESSETH:**

**WHEREAS**, on August 2, 2005, the City Council passed Ordinance No. 22,790 (the “ONG Franchise Ordinance”), granting Oklahoma Natural Gas Company, a division of ONEOK, Inc., its successors and assigns (“ONG” or “Grantee”), a non-exclusive, five-year natural gas utility franchise within the City, thereby affording ONG the right, subject to certain terms and conditions, to operate its natural gas distribution system (the “system”) located within the public ways and grounds of the City and to serve the City, its inhabitants, and the public generally; and

**WHEREAS**, Okla. Const. Art. 18, § 5(a), requires a municipal franchise granting the holder thereof the right to use the public ways and grounds for the purpose of maintaining and operating a business affected with a public interest within the municipality to be approved by the voters of the municipal corporation; and

**WHEREAS**, on October 11, 2005, City voters approved the ONG Franchise Ordinance, which became effective on November 4, 2005 (“effective date”), the date on which ONG filed its acceptance of the franchise with the City Clerk of the City; and

**WHEREAS**, the ONG Franchise Ordinance contains certain terms and conditions controlling the use of the ONG distribution system located in the public ways of the City (the ONG Franchise Ordinance is hereby deemed to be incorporated by reference into and made a part of this License Agreement as if fully set forth herein; certified copies of said Franchise Ordinance may be obtained from the City Clerk of the City); and

**WHEREAS**, Section 3(B) of the ONG Franchise Ordinance provides that, beginning ninety (90) days after the effective date thereof, neither Grantee nor any person shall enter into or continue to use any part of the system located in the public ways pursuant to any Transportation Tariff Arrangement unless certain conditions are met first, which conditions are set forth in Subsections 1, 2, and 3 of said Section 3(B); and

**WHEREAS**, this License Agreement and the terms and conditions set forth herein are authorized and/or required by Sections 3(B) and 3(D) of the ONG Franchise Ordinance.

**NOW THEREFORE**, in consideration of the mutual covenants and conditions contained herein, Licensor and Licensee agree as follows:

**SECTION 1. Grant of License; Sole Purpose For License Specified; Delivery Locations of Licensee.**

a. Licensor grants to Licensee a license pursuant to Section 3(B) of the ONG Franchise Ordinance to permit the Transport Customer to receive Transport Gas pursuant to a Transportation Tariff Arrangement with ONG. (*Ref.* ONG Franchise Ordinance, Sec. 3(B)(1).)

b. This License Agreement authorizes the movement of Transport Gas through ONG's system located in the public ways of Licensor for delivery to the Transport Customer, and for no other purpose. (*Ref.* ONG Franchise Ordinance, Sec. 3(A)(last paragraph).)

c. The following delivery location(s) of Licensee are covered under the terms and conditions of this License Agreement: [List locations for natural gas delivery to Licensee on a separate attached sheet labeled Exhibit A.]

**SECTION 2. Timely Payment Of Volumetric Rate Fee Required; Interest On Past-Due Volumetric Rate Fees.**

a. In consideration of this License Agreement and the license granted by Licensor to Licensee to use the public ways of Licensor for the purpose specified in Section 1 hereof, Licensee agrees to pay the Volumetric Rate fee specified in the ONG Franchise Ordinance to ONG, who will thereafter remit the fee collected to Licensor. Licensee agrees to pay the Volumetric Rate fee specified in the ONG Franchise Ordinance to ONG in a timely manner as part of the Licensee's regular monthly bills from ONG; and Licensee understands that, after the effective date of this License Agreement, Licensee will be billed for the Volumetric Rate fee as part of its regular monthly bill from ONG. (*Ref.* ONG Franchise Ordinance, Secs. 3(B)(2) and 3(C).)

b. Licensee agrees that past-due Volumetric Rate fees or portions thereof shall bear interest at the rate of 1.5% per month until fully paid by Licensee and that any interest accrued on past-due Volumetric Rate fees or portions thereof shall be deemed to constitute part of the past-due Volumetric Rate fees that Licensee owes to Licensor. (*Ref.* ONG Franchise Ordinance, Sec. 3(D)(last paragraph).)

c. The provisions of this Section 2 shall not apply if the Transport Customer possesses a then-current Volumetric Rate fee waiver approved by the City Council of Licensor pursuant to the provisions of Section 12(B) of the ONG Franchise Ordinance.

**SECTION 3. Termination of License Agreement and Transportation Tariff Arrangement; Events of Termination; Appeal of Notice of Termination; Reinstatement.**

a. As authorized and required by Section 3(D) of the ONG Franchise Ordinance, Licensee agrees that Licensor shall have the right to terminate this License Agreement and to order ONG to terminate the Transportation Tariff Arrangement with the Transport Customer, upon the occurrence of the following events of termination:

1. Whenever any one or more of the terms or conditions set forth in this License Agreement or in Section 3(B) of the ONG Franchise Ordinance have not been or are not being complied with by Licensee (*ref.* ONG Franchise Ordinance, Sec. 3(D)(1)); *or*

2. Whenever any one or more of the terms or conditions set forth in Section 3(C) of the ONG Franchise Ordinance, or in any other section of said Ordinance, have not been or are not being complied with by ONG (*ref.* ONG Franchise Ordinance, Sec. 3(D)(1)); *or*

3. Whenever Licensee has not fully paid the Volumetric Rate fee in a timely manner to ONG, as set forth and required by Section 2 of this License Agreement (*ref.* ONG Franchise Ordinance, Sec. 3(D)(2)); *and*

4. Licensor has given written notice of any such termination to ONG and to Licensee, with the termination to become effective on the last day of the calendar month following the expiration of the month in which such notice is given (*ref.* ONG Franchise Ordinance, Sec. 3(D)(3)); provided, written notice of termination shall specify the reasons for the termination and shall be deemed to be “given” when personally served on ONG and the Licensee or when served by facsimile on ONG and the Licensee with receipt confirmation (*see* Section 7 of this License Agreement regarding notifications).

Provided, no termination shall occur due to non-payment of the Volumetric Rate fee if the Transport Customer possesses a then-current Volumetric Rate fee waiver approved by the City Council of Licensor pursuant to the provisions of Section 12(B) of the ONG Franchise Ordinance.

b. Upon written notice of termination being given by Licensor to ONG and Licensee, either ONG or Licensee may appeal such notice of termination by filing a written appeal with the City Manager within 10 calendar days from the date the notice of termination is received Licensee and ONG. Upon the filing of the appeal, the City Manager shall hold a hearing within 5 calendar days to decide the appeal, with Licensee and ONG being given written notice of the date, time and place of the hearing and being allowed to participate and present arguments and evidence to the City Manager in support of the appeal. Following the hearing, the City Manager shall make a decision on the appeal within 5 calendar days and shall immediately notify the Licensee and ONG in

writing of said decision. The decision of the City Manager shall specify the reason or reasons for his decision. If the notice of termination is affirmed by the City Manager, the termination shall become effective as of the date specified in Section 3(a)(4) of this License Agreement. Licensee and/or ONG may thereafter pursue any judicial remedies legally available to them in regard to the termination of the License Agreement by the City.

c. Upon the occurrence of the necessary events of termination stated in Section 3(a) of this License Agreement, unless the notice of termination is reversed by the City Manager pursuant to an appeal filed under Section 3(b) above, this License Agreement shall be deemed terminated and Licensee understands that ONG has agreed to and shall thereupon terminate the Transportation Tariff Arrangement with the Transport Customer and shall cease transporting or distributing all Transport Gas for the Transport Customer unless and until: (1) the Transport Customer remits all past-due Volumetric Rate fees, plus interest as specified in this License Agreement, to Licensor or its designee or agent, which is ONG; and (2) this License Agreement is reinstated by written notice from Licensor to Licensee and ONG and all provisions of this License Agreement and/or the ONG Franchise Ordinance have been fully complied with. (*Ref.* ONG Franchise Ordinance, Sec. 3(D)(last paragraph).) Upon compliance with these conditions of reinstatement, Licensor agrees to immediately give written notice of such reinstatement and compliance to ONG. Provided, no termination shall occur due to non-payment of the Volumetric Rate fee if the Transport Customer possesses a then-current Volumetric Rate fee waiver approved by the City Council of Licensor pursuant to the provisions of Section 12(B) of the ONG Franchise Ordinance.

**SECTION 4. Effective Date of License Agreement.** This License Agreement shall become effective after it is fully executed by both parties and will remain in effect indefinitely unless terminated by Licensor pursuant to the provisions of Section 3 hereof.

**SECTION 5. Assignments or Transfers.** This License Agreement shall not be assigned or transferred by Licensee unless the assignment is approved in writing by the City Council of The City of Oklahoma City.

**SECTION 6. Full Agreement and Amendments.** This License Agreement constitutes the full agreement between Licensor and Licensee and it shall not be amended except by written amendment approved and executed by both parties; provided, the delivery locations specified in attached Exhibit A may be amended by a letter signed by a duly authorized officer or employee of Licensee and by the City Manager of Licensor or his/her designee.

**SECTION 7. Notifications of Licensor, Licensee, and ONG.**

A. Notices to Licensor shall be in writing and personally served or faxed with receipt confirmation:

1. James D. Couch, City Manager of The City of Oklahoma City, 200 North Walker Avenue, 3<sup>rd</sup> Floor. Oklahoma City, OK, 73102, Facsimile 405-297-2570; and
2. Frances Kersey, City Clerk, The City of Oklahoma City, 200 North Walker Avenue, 2<sup>nd</sup> Floor, Oklahoma City, OK, 73102, Facsimile 405-297-3121.

**B. Notices to Licensee shall be in writing and personally served or faxed with receipt confirmation to (name, address, and facsimile):**

\_\_\_\_\_

C. Notices to ONG shall be in writing and personally served or faxed with receipt confirmation to (name, address, facsimile): Mae Williams, Oklahoma Natural Gas Company, P.O. Box 401, Oklahoma City, OK 73101, (405) 551-6745.

**APPROVED** by the Council and **SIGNED** by the Mayor of Licensor this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_.

**CITY/LICENSOR:**

\_\_\_\_\_  
**Mayor**

**ATTEST:**

\_\_\_\_\_  
**City Clerk**

**REVIEWED** for form and legality for Licensor this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_.

\_\_\_\_\_  
**Assistant Municipal Counselor**

200\_\_ **APPROVED** and **SIGNED** by Licensee this \_\_\_\_\_ day of \_\_\_\_\_,

**LICENSEE:**

\_\_\_\_\_  
**Signature** **Title**

\_\_\_\_\_  
**Print Name** **Print Title**

(Must be President/Vice President [if a Corporation]; General Manager [if an L.L.C.]; General Partner [if an L.P.]; Owner [if a Sole Proprietorship])

ATTEST: (SEAL)

\_\_\_\_\_  
Secretary/Asst. Secretary Signature

\_\_\_\_\_  
Print Name

**[AFFIX CORPORATE SEAL HERE]**

(CORPORATE SEAL IS REQUIRED IF YOUR CORPORATION HAS ONE. IF YOUR CORPORATION DOES NOT HAVE A CORPORATE SEAL, WRITE N/A NEXT TO “[Corporate Seal]” ABOVE)



**EXHIBIT A**

Locations for natural gas delivery to Licensee:

Contract #

Location(s) Address:

