



MACKENZIE VALLEY PIPELINE

GENERAL TERMS AND CONDITIONS

GENERAL TERMS AND CONDITIONS

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GENERAL TERMS AND CONDITIONS

ARTICLE 1 DEFINITIONS AND INTERPRETATION

1.1 Definitions

The following terms, when used in these General Terms and Conditions and the Service Agreements, will have the following meanings ascribed thereto:

"Affiliate" means a corporation, partnership or trust that is affiliated with the Party for which the expression is being applied, and, for the purpose of this definition:

a corporation, partnership or trust is affiliated with another corporation, partnership or trust if it directly or indirectly controls or is controlled by that other corporation, partnership or trust and for the purpose of determining whether a corporation, partnership or trust so controls or is so controlled, it will be deemed that:

- (i) a corporation is directly controlled by another corporation, partnership or trust if shares of the corporation to which are attached more than 50% of the votes that may be cast to elect directors of the corporation are beneficially owned by that other corporation, partnership or trust and the votes attached to those shares are sufficient, if exercised, to elect a majority of the directors of the corporation;
- (ii) subject to (iii), a partnership is directly controlled by another partnership, corporation or trust if that partnership, corporation or trust beneficially owns more than a fifty percent (50%) interest in the partnership;
- (iii) a limited partnership is controlled by the Person that controls the general partner of such limited partnership or, if there is more than one general partner, by any Person that controls a general partner or general partners having more than a fifty percent (50%) aggregate voting interest in the limited partnership;
- (iv) a trust is controlled by the Person that is entitled to elect or appoint the majority of the trustees of the trust;
- (v) a corporation, partnership or trust is indirectly controlled by another corporation, partnership or trust if control, as defined in (i) through (iv) above, is exercised through one or more other corporations, partnerships or trusts; and
- (vi) where two or more corporations, partnerships or trusts are affiliated at the same time with the same corporation, partnership or trust, they will be deemed to be affiliated with each other.

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"Affiliated Guarantor" means an Affiliate of Shipper or an Affiliate of an assignee which meets the requirements of the Service Agreement and which Affiliate has provided to Transporter a guarantee, which will be in a form acceptable to Transporter at the time of the execution of such guarantee, guaranteeing all of the obligations of Shipper or such assignee pursuant to the Service Agreement.

"Authorized Overrun Service" or **"AOS"** means the right of Firm Shippers to be allocated a portion of capacity in the Transportation System which Transporter determines is available above the capacity that is required to transport the aggregate total of nominated Firm Service commitments of all Firm Shippers.

"Common Stream Operator" or **"CSO"** shall mean the person who, with respect to a Receipt Point:

- (i) provides Company with the estimates of Flow at the Receipt Point;
- (ii) provides Company with the allocation of the estimated Flow and Total Quantity for the Receipt Point to each Customer receiving Service at the Receipt Point; and
- (iii) accepts Nominations made by Company on behalf of Customers and confirms the availability of gas to meet Customer's Nominations.

"Connecting Operator" means the operator of any pipeline, gathering or processing facilities connected either upstream or downstream to the Transportation System.

"Contract Demand Quantity" means the daily quantity of Natural Gas expressed in GJ/day, which Shipper has requested and Transporter has agreed to transport on a firm basis.

"Contract Year" means a period of twelve consecutive months beginning on the first of the month following the Date of Commencement.

"Cubic Metre of Gas" when used in reference to Natural Gas means, the volume of Natural Gas at a temperature of fifteen degrees Celsius (15°C) and an absolute pressure of one hundred and one point three two five kilopascals (101.325 kPa) that occupies one cubic metre (1 m³).

"Day" or **"day"** means any calendar day.

"Date of Commencement" means the earlier of:

- (a) the first day for which Shipper makes a nomination and for which Transporter authorizes Service; or



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- (b) the tenth (10th) day following the day on which Shipper received Transporter's Start-up Notice.

"Delivery Month" means the month during which Transporter provided Service to a Shipper.

"Delivery Point" means the point of interconnection between the Mackenzie Valley Pipeline and the facilities of NGTL located in northwest Alberta near the Northwest Territories-Alberta border or any upstream point of interconnection between the Transportation System and any downstream pipeline facilities, as set out on the Schedule of Service.

"Demand Charge" means the amount, expressed in \$/GJ, established by Transporter from time to time as a charge for Firm Service.

"Economic Lateral Test" means the Economic Lateral Test document that outlines the methodology for evaluating delivery laterals to communities in the Northwest Territories.

"ECS" shall mean the Pipeline's electronic communications system, which may be used for the purposes set forth in Article 21 of the General Terms and Conditions.

"Firm Service" means firm service transportation that is provided pursuant to a Firm Service Transportation Agreement up to the Contract Demand Quantity.

"Firm Service Transportation Agreement" means a firm service transportation agreement executed between Shipper and Transporter for the transportation of Natural Gas in the Transportation System in the form which is attached as Schedule A.

"Firm Shipper" means a shipper that enters into a Firm Service Transportation Agreement and is eligible to receive Firm Service.

"Force Majeure" shall be as defined in Section 15.2.

"FS-15 Toll Premium" means a fifteen cent per gigajoule (\$0.15/GJ) toll surcharge on the Contract Demand Quantity that is applicable to Firm Service, which has a fifteen- (15) year term pursuant to a Firm Service Transportation Agreement.

"Gas Lost" means for any period the total quantity of Natural Gas lost as a result of a rupture or leak.

"Gas Used" means for any period the total quantity of Natural Gas used by Transporter for fuel, including compressor and heater fuel and gas used in the operation, maintenance and construction of the Transportation System.

"General Terms and Conditions" means the terms and conditions contained in this document as amended from time to time.

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"GIA" means the *Electricity and Gas Inspection Act* being Chapter E-4 of the Revised Statutes of Canada, 1985, as amended and all applicable regulations issued pursuant thereto.

"GJ" means 1 gigajoule or 1,000,000,000 Joules.

"Gross Heating Value" means the total megajoules obtained by the complete combustion of one Cubic Metre of Natural Gas with air, the Natural Gas to be free of all water vapour and the Natural Gas, air and products of combustion to be at standard conditions of fifteen degrees Celsius (15°C) and one hundred and one point three two five kilopascals (101.325) kPa and all water vapour formed by the combustion reaction condensed to the liquid state.

"Interconnection Point" means the point of interconnection of the upstream or downstream pipeline, compression, gathering or processing facilities with the Transportation System.

"Interruptible Service" means interruptible service transportation that is provided pursuant to an Interruptible Service Transportation Agreement.

"Interruptible Service Charge" means the amount, expressed in \$/GJ, established by Transporter from time to time as a charge for Interruptible Service.

"Interruptible Service Transportation Agreement" means an interruptible service transportation agreement executed between a Shipper and Transporter.

"Joule" shall mean the work done by a force of one Newton (1 N) with a displacement of one metre (1 m) in the direction of the force.

"kPa" means kilopascals of pressure gauge unless otherwise specified.

"Lenders" means any banks, financial institutions or investors, including any Pipeline owner or an Affiliate of a Pipeline owner, which provides either construction or long-term debt financing to a Pipeline owner in respect of the Transportation System.

"Letter of Credit" means an irrevocable letter of credit on terms and conditions determined by Transporter, issued in favour of Transporter by a bank, trust company or other financial institution, which has a combined capital surplus of at least one billion dollars and whose unsecured, unsubordinated, non-credit enhanced long-term debt is rated, in each case, no lower than: A2 by Moody's Investor Service, A by Standard and Poor's and A by Dominion Bond Rating Service or the then equivalent rating used by any such Rating Agency in substitution or replacement for such rating.

"Line Pack Gas" means, at any point in time, that quantity of Natural Gas determined by Transporter to be the total quantity of Natural Gas contained in the Transportation System.

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"Long-Haul Rate" means the Long-Haul Rate for a particular Receipt Point in the Table of Rates, which has been fixed by Transporter or the National Energy Board for Service under the Schedule of Service.

"Mackenzie Valley Pipeline" means the Natural Gas pipeline system originating near the outlet of a processing facility located near Inuvik and terminating in northwestern Alberta near the Northwest Territories-Alberta border and includes pipelines and other facilities, or any part or parts thereof for the measuring, transporting, handling or delivery of any Natural Gas.

"Maximum Receipt Pressure" or "Maximum Operating Pressure" means a pressure of eighteen thousand kilopascals (18,000 kPa).

"MCT" means the clock time in the Mountain time zone.

"Measurement Variance" means, for any period, after taking into account any adjustment made in accordance with the provisions of section 2.5, the result obtained by applying the following formula:

$$MV = (A + B) - C$$

where:

"MV" is the Measurement Variance;

"A" is the total quantity of Natural Gas determined by Transporter to have been delivered to all Shippers during the period;

"B" is the aggregate of the Gas Lost and Gas Used during the period;
and

"C" is the total quantity of Natural Gas determined by Transporter to have been received from all Shippers during the period.

"Month" or "month" means a period of time beginning at 08:00 hours MCT on the first day of a calendar month and ending at 08:00 hours MCT on the first day of the next calendar month.

"Natural Gas" means any hydrocarbons or mixture of hydrocarbons and other gases, consisting primarily of methane, which at a temperature of fifteen degrees Celsius (15°C) and an absolute pressure of one hundred and one point three two five kilopascals (101.325 kPa), is in the gaseous state.

"NEB Act" means the *National Energy Board Act* (Canada), as amended from time to time and includes any Canadian federal legislation enacted in replacement thereof.

"NGTL" means NOVA Gas Transmission Limited or any successor thereto.

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"Nomination" means Shipper's notice to Transporter respecting the total quantity of Natural Gas which Shipper desires Transporter to receive at a Receipt Point on any day.

"North American Energy Standards Board" serves as an industry forum for the development and promotion of standards, which will lead to a seamless marketplace for wholesale and retail Natural Gas, as recognized by its customers, business community, participants, and regulatory entities.

"Northwest (NWT) Territory Delivery Consumer" means:

- (i) a person who uses or consumes Natural Gas in the Northwest Territories other than a person who uses or consumes Natural Gas primarily as a raw material or as a fuel, whether for space heating, water heating or otherwise, in an industrial or manufacturing operation; and
- (ii) a person who uses or consumes Natural Gas in the Northwest Territories as fuel in order to produce electricity but only to the extent that such electricity is supplied by such person to residential, commercial or institutional consumers of such electricity which are located within the Northwest Territories.

"Party" means Transporter, Firm Shipper, or Shipper.

"Performance Assurance" means any assurance of performance of Shipper's obligations under a Service Agreement which may be provided in cash, by a letter of credit or other form of security or other assurance, each in an amount and a form acceptable to Transporter, from time to time by a Performance Assurance Provider in favour of the Transporter.

"Performance Assurance Provider" means Shipper, its Affiliated Guarantor or any third party which is providing a Performance Assurance for or on behalf of such Shipper.

"Person" means an individual, a partnership, a limited partnership, a corporation, a limited or unlimited liability company, a trust, an unincorporated organization, a union, a government, including any political subdivision, agency, instrumentality, department, commission or board, thereof, and the heirs, executors, administrators or other legal representatives of an individual.

"Pipeline" means the Transportation System.

"Pipeline Code of Conduct" refers to the policy of the Transporter as filed with and approved by the National Energy Board that defines the conduct appropriate for Affiliated companies involved in the Transportation System as a Pipeline owner, Transporter or a Shipper. Refer to references in Sections 22.2 and 22.3.

"Primary Term" is the period of time commencing on the Date of Commencement and extending through either a twenty (20) or fifteen (15) year period, as specified in a Firm Service

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Transportation Agreement Schedule of Service, with the start of such period being at the commencement of the first day of the next month following the month in which the Date of Commencement occurred.

"Price Point" means the price point assigned to each Receipt Point as listed in the Table of Rates.

"Prime Rate" means the rate of interest, expressed as an annual rate of interest, announced from time to time by the main branch of the Royal Bank of Canada, Calgary, Alberta as the reference rate then in effect for determining interest rates on Canadian dollar commercial loans in Canada.

"Receipt Point" means the point at which gas may be received from Customer by Company under a Firm Transportation Service Agreement.

"Schedule of Service" means any schedule attached to a Service Agreement and designated as a "Schedule of Service".

"Service" means and includes the provision of the Transportation System, the use of the Transportation System or the provision and use of the Transportation System.

"Service Agreement" means an agreement between Transporter and Shipper respecting Service to be provided by Transporter to Shipper. Service Agreements include Firm Service Transportation Agreements and Interruptible Service Transportation Agreements.

"Shipper" means any Person who enters into a Service Agreement with Transporter.

"Shipper's Daily Authorized Quantity" means the quantity of gas Transporter shall accept for delivery in a Day as per Shipper's Contract Demand Quantity less System Use Gas and Measurement Variance and adjusted by the quantity of any Monthly Gas Imbalances defined in Section 11.3.

"Shipper's Inventory" means for each Shipper, in respect of a Delivery Month and all of the Shipper's Service Agreements, the amount determined in accordance with the following formula:

$$INV = (A + B) - (C + D)$$

where:

"INV" is Shipper's Inventory for the Delivery Month, expressed in GJ;

"A" is the total quantity of Natural Gas delivered by Shipper to Transporter during the Delivery Month at all of Shipper's Receipt Points;

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- "B"** is the share of the Measurement Variance apportioned to Shipper for the Delivery Month;
- "C"** is the total quantity of Natural Gas delivered by Transporter to Shipper during the Delivery Month at the Delivery Point; and
- "D"** is the share of Gas Used and Gas Lost apportioned to Shipper for the Delivery Month.

"Short-Haul Rate" means the Short-Haul Rate for a particular Receipt Point in the Table of Rates, which has been fixed by Transporter or the National Energy Board for Service under the Schedule of Service.

"System Use Gas" shall mean the aggregate of Gas Used and Gas Lost.

"Table of Rates" shall mean the Table of Rates setting forth rates that have been fixed by Transporter or the National Energy Board to be imposed, observed and followed by Shipper.

"Tariff" means the terms and conditions, under which Transporter will transport Natural Gas on the Transportation System including the General Terms and Conditions and the Service Agreement each as amended from time to time and approved by the National Energy Board.

"Transporter" means Imperial Oil Resources Ventures Limited.

"Transporter's Start-up Notice" has the meaning ascribed to it in Section 5.6.

"Transportation System" means the Mackenzie Valley Pipeline, any replacement thereof or expansion thereto and includes all facilities installed from time to time to provide Service under any Service Agreement.

1.2 Gender

In all Service Agreements and these General Terms and Conditions words importing the singular will include the plural and vice versa, and words importing the masculine gender will include the feminine gender and vice versa.

1.3 Headings

The division of Service Agreements and these General Terms and Conditions into Articles and Sections, the provision of a Table of Contents and the insertion of headings are for convenience of reference only and will not affect the construction or interpretation of any Service Agreement or these General Terms and Conditions.

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1.4 Applicable Law

All Service Agreements and these General Terms and Conditions will be construed in accordance with the laws of Alberta and the laws of Canada applicable therein and Service Agreements will be treated in all respects as contracts made and entered in Alberta by parties domiciled and resident therein. The Parties irrevocably and unconditionally with respect to any matter or thing arising out of or pertaining directly or indirectly to a Service Agreement attorn and submit to the exclusive jurisdiction of the courts of Alberta.

1.5 Energy Basis

Any reference in these General Terms and Conditions to a quantity of Natural Gas will be a reference to an amount of energy, expressed in GJs.

1.6 References

All references to "Articles" or "Sections" are references to the Articles or Sections of these General Terms and Conditions.

1.7 Currency

All references to "dollars" or "\$" in a Service Agreement or these General Terms and Conditions will be references to amounts expressed in Canadian currency.

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ARTICLE 2 MEASURING EQUIPMENT AND SAMPLING

2.1 Access to Shipper's Receipt Point Equipment

Transporter shall have the right to have any measuring equipment or systems which are operated by Transporter connected to any measuring equipment owned or operated by Shipper at or upstream of any Receipt Point.

2.2 Installation of Transporter Equipment

Transporter will make all the necessary arrangements for the measurement of the quantity and volume of Natural Gas delivered by Transporter at the Delivery Point, and may rely on any measurements provided by NGTL at the inlet of the NGTL facilities located immediately downstream of the Delivery Point. Transporter may, at Transporter's expense, furnish and install any additional measuring equipment and SCADA equipment at or upstream of a Receipt Point and will, maintain and operate any such equipment installed by it. Where Transporter has installed measuring or SCADA equipment at or upstream of a Receipt Point, such equipment will be utilized for the purposes of all measurement under all Service Agreements and these General Terms and Conditions.

2.3 Compliance with Standards

Shipper and Transporter shall use such measuring equipment, as Transporter deems appropriate; provided that all measuring equipment shall comply with all applicable requirements under the GIA.

2.4 Calibration and Testing of Measuring Equipment

The accuracy of measuring equipment will be verified by Transporter at such intervals as Transporter may determine to be appropriate for such equipment, and if requested, in the presence of the other Party, but neither Transporter nor Shipper will be required to verify the accuracy of such equipment more frequently than once in any thirty (30) day period, unless the other Party requests a special test. The Transporter must give Shippers reasonable notice of at least forty-eight (48) hours' notice prior to calibration and testing to allow Shippers adequate time to arrange witnessing if desired. If either Party notifies the other that it desires a special test of any measuring equipment the Parties will co-operate to secure a prompt verification of the accuracy of such equipment. The expense of any such special test, if called for by Shipper or Transporter, will be borne by the Party requesting same if the measuring equipment is found to be in error by not more than the following limits:

- (a) two percent (2%) for measuring equipment utilized to determine quantity;



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- (b) one-half percent (0.5%) for any instrument utilized to determine Gross Heating Value;
- (c) one-quarter percent (0.25%) of full scale for equipment used to measure pressure;
- (d) one-half degree Celsius (0.5°C) for equipment used to measure temperature.

If upon test, any measuring equipment is found to be in error by not more than the limits specified above, the readings immediately prior to the test of such equipment will be considered accurate in computing deliveries or receipts of Natural Gas but such equipment will be adjusted at once to register accurately.

2.5 Correction

If, for the period since the last preceding test, it is determined that any of the measuring equipment is found to be out of service or registering inaccurately with the result that a measurement error in excess of the limits set out in Section 2.4 has occurred, such equipment will be adjusted as soon as practical to read as accurately as possible and the readings of such equipment will be adjusted to correct for such error for a period definitely known or agreed upon, or if not known or agreed upon, for a period extending over one-half ($\frac{1}{2}$) of the elapsed time since the last test. Transporter will determine the measurement during the appropriate period on the basis of the best data available using the most appropriate of the following methods:

- (a) by using the data recorded by any check measuring equipment if installed and accurately registering;
- (b) by making the appropriate correction if the deviation from the accurate reading is ascertainable by calibration test or mathematical calculation;
- (c) by estimating based on Shipper measurements; or
- (d) by estimating based on deliveries under similar conditions during a period when the equipment was measuring accurately.

2.6 Inspection of Equipment and Audit of Records

Transporter and Shipper will each have the right to inspect all measuring and SCADA equipment operated by the other Party, and the charts and other measurement or test data of the other Party at all times during normal business hours upon reasonable notice, but the reading, calibration and adjustment of such equipment will be done only by the Party operating the equipment. In addition to and without limiting rights in Section 6.9, Transporter and Shipper will have the right to carry out an audit of all measuring information supplied by the other Party at all times during normal business hours upon reasonable notice to the other Party.

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2.7 Sampling Quality Equipment and Tests

- (a) Transporter may, at Shipper's expense, furnish and install all necessary equipment at any Receipt Point and maintain and operate any equipment installed by it to determine whether or not the Natural Gas received by Transporter at such Receipt Point conforms to the quality requirements set forth in section 3.1.
- (b) Transporter may establish and utilize such reasonable methods and procedures as Transporter determines are necessary in order to determine whether or not the Natural Gas received by Transporter at any Receipt Point conforms to the quality requirements set forth in section 3.1.

2.8 Sealing and Security

Shipper has the right to install seals as necessary to ensure that the total stream is measured and that any tampering of the measurement system will be detected.



Imperial Oil



ConocoPhillips



Shell Canada

ExxonMobil

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ARTICLE 3 QUALITY OF NATURAL GAS

3.1 Quality Requirements at Receipt Points

The Quality Specifications at each Receipt Point are expected to be that the Natural Gas:

- (a) shall be free, at the pipeline operating pressure and temperature at the Receipt Point, from sand, dust, gums, crude oil, contaminants, impurities, or other objectionable substances which will render the Natural Gas non-merchantable, cause injury, cause damage or interfere with the operation of the Transportation System;
- (b) shall have a maximum temperature at which two (2) phases can exist at any pressure (a cricondenthem) of minus ten degrees Celsius (-10°C); provided that this cricondenthem specification shall be revised to reflect NGTL's specification for receiving high pressure Natural Gas at the Delivery Point located at the Interconnection Point between the Transportation System and the facilities of NGTL located in northwest Alberta near the Northwest Territories-Alberta border;
- (c) shall not contain more than three milligrams (3 mg) of hydrogen sulphide per one cubic metre (1 m³);
- (d) shall not contain more than one hundred and fifteen milligrams (115 mg) of total sulphur per one cubic metre (1 m³);
- (e) shall not, unless Section 3.6 is applicable to the Shipper, contain more than the percentage of carbon dioxide by volume ("CO₂ Concentration") from time to time established by NOVA as the maximum CO₂ Concentration for Natural Gas which may be received onto the NOVA transmission system at the NOVA interconnect without a NOVA Shipper being required to obtain service from NOVA at such point under NOVA's Rate Schedule CO₂, which NOVA percentage is defined herein as the "NOVA CO₂ Limit";
- (f) shall not contain more than six milligrams (6 mg) of water vapour per one cubic metre (1 m³);
- (g) shall not be less than the minimum inlet temperature nor exceed the maximum inlet temperature for such Receipt Point, each as specified by Transporter from time to time;
- (h) shall be as free of oxygen as practical and shall not in any event contain more than four-tenths of one percent (0.4%) by volume of oxygen;

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- (i) shall have a gross heating value of not less than thirty-six megajoules (36 MJ) per cubic metre; and
- (j) shall not contain any component or mix of components that may cause the presence of any liquid anywhere in the Transportation System under Pipeline operating conditions.

3.2 Non-Conforming Natural Gas

Transporter may, from time to time, at its sole discretion subject to Section 3.5, accept Natural Gas from a shipper at any Receipt Point which fails to meet one or more of the Quality Specifications set out in Section 3.1. Transporter may, at its sole option, curtail the receipt of any such Non-Conforming Natural Gas from any Shipper at any time without prior notice to such Shipper or the Common Stream Operator; provided that Transporter shall give notice of any curtailment to each affected shipper or Common Stream Operator as soon as reasonably practicable following the occurrence of such event. Any such curtailment shall not relieve any Shipper from any obligation to pay any rate, toll, charge, surcharge or other amount payable to Transporter.

3.3 Quality Standard at the Delivery Point

Natural Gas which Transporter delivers at the Delivery Point will have the quality that results from Natural Gas having been transported and commingled in the Transportation System. Transporter shall have no liability to Shipper if NGTL refuses to accept any Natural Gas of Shipper as a result of the quality of such Natural Gas. If NGTL refuses to accept Shipper's Natural Gas, Shipper shall not be relieved from any obligation to pay any charge or other amount payable to Transporter nor shall Shipper be entitled to any Demand Charge Credits pursuant to Article 14.

Each Shipper at a Delivery Point will be allocated Natural Gas with a composition of the common stream at such Delivery Point subject to a Shipper specific allocation of CO₂ in accordance with Section 3.5 for all deliveries at the NOVA Interconnect.

3.4 Common Stream Operator Duties

Shipper shall be deemed conclusively for all purposes of the Tariff to have appointed the Common Stream Operator at each Receipt Point at which Shipper has the right to receive service, as its agent for the purpose of carrying out and performing the duties, functions and responsibilities of a Common Stream Operator as set out in this Section 3.4. Such appointment as Shipper's agent shall be irrevocable and shall not be affected in any way whatsoever by any change in the identity of the Common Stream Operator at any Receipt Point or the number or identity of Shippers at any Receipt Point. Shipper shall cause the Common Stream Operator at each Receipt Point at which Shipper has the right to receive service to provide Transporter with the CO₂ Concentration of the entire stream of Natural Gas being delivered at such Receipt Point and an allocation of the total volume of CO₂ in the Natural Gas delivered during each day for the

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account of Shipper at such Receipt Point. Transporter shall be entitled to rely and act upon all notifications, communications or information given, made or provided by any Common Stream Operator on behalf of and in respect of Shipper in connection with the matters specified in this Section 3.4 as if such notifications, communications or information had been given, made, or provided directly by Shipper to Transporter. All CO₂ Concentrations provided by the Common Stream Operator and all allocations of the total volume of CO₂ in the Natural Gas being delivered at a Receipt Point for or on account of Shipper shall, as between Shipper and Transporter, be binding upon Shipper for whose account or on whose behalf they were made or provided by the Common Stream Operator. If any Common Stream Operator at a Receipt Point fails to provide Transporter with the CO₂ Concentration of the entire stream of Natural Gas being delivered at a Receipt Point or an allocation of the total volume of CO₂ in the Natural Gas delivered during each day for the account of all shippers at such Receipt Point or any other required data and information, each in a timely manner, then Transporter may, at its sole option, curtail the receipt of all Natural Gas at such Receipt Point without prior notice to any shipper at such Receipt Point or such Common Stream Operator, until such time as such Common Stream Operator provides all such data or information; provided that Transporter shall provide notice of any curtailment to each affected shipper or Common Stream Operator as soon as reasonably practicable following the occurrence of such event. Any such curtailment shall not relieve any shipper at such Receipt Point from any obligation to pay any rate, toll, charge, surcharge or other amount payable to Transporter.

3.5 CO₂ Calculation

Shipper and Transporter recognize that it may be necessary to allocate the volume of CO₂ contained in the commingled stream of Natural Gas to be delivered by Transporter to all shippers at the NOVA Interconnect in order that NOVA will be able to determine the NOVA charges associated with the transportation of Natural Gas on the NOVA transmission system which has a CO₂ Concentration in excess of the NOVA CO₂ Limit. If in any month, the CO₂ Concentration of the Natural Gas delivered by Transporter to all shippers at the NOVA Interconnect during such month is greater than the NOVA CO₂ Limit, then Transporter will determine an "Excess NOVA CO₂ Volume" for each shipper in accordance with the following formula:

$$\text{Excess NOVA CO}_2 \text{ Volume} = A \times (B - C) \times \frac{D}{E}$$

where:

A = the total volume of Natural Gas delivered by Transporter at the NOVA Interconnect during such month, as determined by Transporter;

B = the weighted average, by volume, CO₂ Concentration of all of the Natural Gas delivered by Transporter at the NOVA Interconnect, during such month, as determined by Transporter;

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C = the NOVA CO₂ Limit for such month;

D = the volume of CO₂, if any, which was delivered by such shipper at all Receipt Points during such month which was in excess of the product of the total volume of Natural Gas delivered by such shipper at all Receipt Points and the NOVA CO₂ Limit for such month; and

E = the total volume of CO₂ which was delivered by all shippers at all Receipt Points during such month which was in excess of the product of the total volume of Natural Gas delivered by all such shippers at all Receipt Points and the NOVA CO₂ Limit for such month.

If "B" is less than or equal to "C" the Excess NOVA CO₂ Volume for each shipper will be zero (0). If "D" is equal to zero (0) for any shipper then the Excess NOVA CO₂ Volume for such shipper will also be zero (0).

3.6 CO₂ Exceptions

Notwithstanding the Quality Specification for CO₂ Concentration set out in Section 3.1(e), Shipper may commence delivering and thereafter continue to deliver Natural Gas which otherwise meets all other Quality Specifications at a particular Receipt Point even if the CO₂ Concentration of the entire stream of Natural Gas being delivered at such Receipt Point exceeds the NOVA CO₂ Limit; provided that:

- (a) such shipper has first complied with the requirements of Section 3.7, if applicable;
- (b) acceptance of such Natural Gas would not, in Transporter's sole opinion, give rise to any safety concern to the Transportation System, to the NOVA transmission system or to any NWT Delivery Consumer;
- (c) acceptance of such Natural Gas would not, in Transporter's reasonable opinion based on objective criteria, give rise to any operational concern to the Transportation System, to the NOVA transmission system or to any NWT Delivery Consumer; and
- (d) NOVA is prepared to accept an increase in the CO₂ Concentration of the commingled stream of Natural Gas at the NOVA Interconnect which would arise from the acceptance of such Natural Gas by Transporter.

3.7 CO₂ Shipper Assurances

At Transporter's request, each shipper which may have a total volume of CO₂ in the Natural Gas being delivered for the account of such shipper at a Receipt Point on any day which will be in

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excess of the product of the total volume of Natural Gas delivered by Shipper at such Receipt Point and the NOVA CO₂ Limit for such day shall, from time to time, provide Transporter with all assurances reasonably required by Transporter to confirm that such shipper has made all suitable arrangements with NOVA to transport such shipper's Excess NOVA CO₂ Volume. If Shipper fails to provide any such requested assurances forthwith following a request by Transporter, then Transporter may, at its sole option, curtail the receipt from Shipper of all Natural Gas to which such assurances relate, without prior notice to Shipper or the Common Stream Operator, until such time as Shipper provides the assurances requested. Any such curtailment shall not relieve any shipper from any obligation to pay any rate, toll, charge, surcharge or other amount payable to Transporter.

3.8 Curtailments

In addition to Transporter's rights pursuant to Section 3.2 and notwithstanding Section 3.6, Transporter may curtail the receipt of Natural Gas from all shippers at any Receipt Point where the CO₂ Concentration of the entire stream of Natural Gas being delivered at such Receipt Point exceeds the NOVA CO₂ Limit if, in Transporter's sole opinion, Transporter believes that the continued acceptance of such Natural Gas may give rise to any safety concern or operational concern to the Transportation System, to the NOVA transmission system or to any NWT Delivery Consumer. Transporter may implement all curtailments at any time without prior notice to any shipper or Common Stream Operator; provided that Transporter shall provide notice of any curtailment to each affected shipper or Common Stream Operator as soon as reasonably practicable following the occurrence of such event. Each shipper at a Receipt Point where the CO₂ Concentration of the entire stream of Natural Gas being delivered at such Receipt Point exceeds the NOVA CO₂ Limit will be subject to curtailment whether or not the volume of CO₂ in the Natural Gas being delivered for the account of such shipper at such Receipt Point is in excess of the NOVA CO₂ Limit. Any such curtailment shall not relieve any shipper from any obligation to pay any rate, toll, charge, surcharge or other amount payable to Transporter.

3.9 Amendments

The provisions set out in these General Terms and Conditions which address CO₂ Concentration and the acceptance of Natural Gas at any Receipt Point where the CO₂ Concentration of the entire stream of Natural Gas being delivered at such Receipt Point exceeds the NOVA CO₂ Limit were developed to reflect the practices and requirements of NOVA and Transporter reserves the right, from time to time, to amend or alter any of Section 3.1(e), 3.3 through 3.9 in order that the General Terms & Conditions conform to any revised NOVA practices or requirements.

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ARTICLE 4 MEASUREMENT

4.1 Method of Measurement

Transporter may make such measurements and calculations and use such procedures as it deems appropriate in determining the quantity of Natural Gas; provided that the measurements and calculations made and the procedures used comply with any applicable requirements under the GIA.

4.2 Units of Measurement

The unit of volume for purposes of measurement of volume of gas will be one thousand (1,000) Cubic Metres (10^3m^3) of Natural Gas measured to an accuracy of one decimal place at an absolute pressure of one hundred and one point three two five kilopascals (101.325 kPa) at a temperature of fifteen degrees Celsius (15°C).

The unit of energy for purposes of measurement of quantity will be one gigajoule (1 GJ).

4.3 Atmospheric Pressure

For the purpose of measurement atmospheric pressure will be determined in accordance with the methodology prescribed by the GIA applied to the nearest one-hundredth kilopascal (0.01 kPa) absolute and deemed to be constant at the time and location of measurement.

4.4 Flowing Temperature

The temperature of flowing Natural Gas will be determined by means of a recording thermometer or other equipment appropriate for the determination of temperature.

4.5 Determination of Natural Gas Characteristics

The Natural Gas characteristics including, without limiting the generality of the foregoing, Gross Heating Value, relative density, nitrogen and carbon dioxide content of the Natural Gas will be determined, at Transporter's option, by sampling and laboratory analysis, by continuous recording equipment or through computer modelling. Shippers shall have the right to have a representative present at the time that samples of Shippers gas are taken. Transporter shall provide Shipper with at least forty-eight (48) hours' notice prior to sampling. Should Shippers not have a representative present the results of the sampling shall nevertheless be considered accurate.

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4.6 Exchange of Measurement Information

Upon request, Transporter and Shipper will make available to the other Party, as soon as practical, all measurement and test charts, measurement data, quality analysis and measurement information pertaining to the Service being provided to Shipper or the Natural Gas delivered to or from the Transportation System.

4.7 Preservation of Measurement Records

Transporter and Shipper will preserve all measurement test data, measurement charts and other similar records for a minimum period of seven (7) years or such longer period as may be required by record retention rules of any duly constituted regulatory body having jurisdiction.

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ARTICLE 5 CHARGES FOR SERVICE

5.1 Firm Service Transportation Charge

Shipper's monthly transportation charge for Firm Service during each Delivery Month pursuant to any Schedule of Service to each Firm Service Transportation Agreement will be calculated by the application of the following formula:

$$\text{FTC} = \text{A} \times \text{B}$$

where:

"FTC" is Shipper's firm transportation charge under a Schedule of Service to such Firm Service Transportation Agreement;

"A" is the Contract Demand Quantity for such Schedule of Service; and

"B" is the Demand Charge as set forth in Table of Rates.

Shipper's monthly transportation charge for Firm Service during each Delivery Month under each Firm Service Transportation Agreement will be the sum of the monthly transportation charges for Firm Service during such Delivery Month pursuant to each Schedule of Service to such Firm Service Transportation Agreement.

5.2 Interruptible Service Transportation Charge

Shipper's monthly transportation charge for Interruptible Service during each Delivery Month under an Interruptible Service Agreement will be calculated by the application of the following formula:

$$\text{ITC} = \text{A} \times \text{B}$$

where:

"ITC" is Shipper's monthly interruptible transportation charge under an Interruptible Service Transportation Agreement;

"A" is the total quantity of Natural Gas received by Transporter from Shipper at the Receipt Points under the Interruptible Service Transportation Agreement during the Delivery Month;

"B" is the Interruptible Service Charge applicable for the Delivery Month as set forth in Table of Rates.



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5.3 Authorized Overrun

Authorized Overrun Service, or AOS, will be allocated daily by Transporter to each Firm Shipper in a quantity equal to the lesser of:

- (a) a pro rata portion of available AOS capacity according to the ratio that each such Firm Shipper's Contract Demand Quantity bears to the aggregate of all Firm Shipper's Contract Demand Quantities;
- (b) ten percent (10%) of such Firm Shipper's Contract Demand Quantity;
- (c) the AOS nominated by such Firm Shipper;

5.4 First Delivery Month Charges

For the purposes of determining any Firm Service transportation charges or any Interruptible Service Charges for the Delivery Month in which the Date of Commencement occurs, the number of days that will be utilized in any calculation will be the number of days in such month on which Transporter offered Service to Shipper.

5.5 Aggregate Charge for Service

Shipper shall pay in respect of each Delivery Month:

- (a) the sum of the amounts calculated in respect of the Delivery Month of: the monthly transportation charges calculated in accordance with Section 5.1, section 5.2 and section 5.3; less
- (b) any Demand Charge Credits calculated in accordance with Article 14.

5.6 Transporter's Start-up Notice

Transporter shall advise Shipper, from time to time, and at least once every three (3) months as to the date when Transporter estimates that Service will be available. Transporter may give Shipper notice of the actual date of availability of Service under a Service Agreement ("Transporter's Start-up Notice"), at any time after the date that is the latter of:

- (a) the date that Commissioning has occurred; or
- (b) the date that NGTL has facilities in place at the delivery Interconnection Point which could be utilized by NGTL to provide transportation service from such point on NGTL's system to any Shipper.

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ARTICLE 6 BILLING AND PAYMENT

6.1 Billing

Shipper will provide Transporter with all information which is available to Shipper if such information is required by Transporter for billing purposes including any Receipt Point measurement and inlet Natural Gas characteristics data. Such information is to be furnished by Shipper on or before the **fifth (5th)** day of each month following a Delivery Month. On or before the **fifteenth (15th)** day of each month following a Delivery Month, Transporter will render a bill to Shipper for Service rendered during the Delivery Month.

6.2 Payment

Shipper will make payment to Transporter of its bill so that such payment shall be received by Transporter not later than the twenty-fifth (25th) day of the month following the Delivery Month.

6.3 Late Billing

If Transporter renders a bill after the fifteenth (15th) day of a month, then the date for payment will be that day which is ten (10) days after the day that such bill was rendered.

6.4 Interest on Unpaid Amounts

Transporter will have the right to charge interest on the unpaid portion of any bill commencing with the date payment was due and continuing until the date payment is actually made. The initial rate of interest to be charged by Transporter will be the rate of interest which is one percent (1%) over and above the Prime Rate of interest of the Royal Bank of Canada in effect on the first day of the month the payment was due. The rate of interest will be adjusted to maintain a charge of one percent (1%) over the Prime Rate if the Prime Rate changes while there are unpaid amounts.

6.5 Adjustment Where Bill Estimated

Information used for billing may be actual or best available data. If actual information necessary for billing is unavailable to Transporter sufficiently in advance of the fifteenth (15th) day of the month to permit the use of such information in the preparation of a bill, Transporter shall use best available data. In the month that actual information becomes available respecting a previous month where best available data was used, the bill for the month in which the actual information became available will be adjusted to reflect the difference between the actual and best available data as if such information related to such later month. Neither Transporter nor Shipper will be entitled to interest on any such adjustment.

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6.6 Billing Error Adjustments

If an error is discovered in the amount shown due in any bill rendered under any Service Agreement, an appropriate correction will be made. Claims for errors by either Party will be made promptly in writing by the Party discovering any error. If Transporter has overcharged Shipper and Shipper shall have paid the bill containing the overcharge then Transporter will refund to Shipper the amount of the overcharge within thirty (30) days after the final determination of the amount of the overcharge. Transporter will pay interest on the amount of the overcharge commencing with the date that the overpayment was made and continuing until the date reimbursement is actually made unless such overcharge resulted from Shipper's error. If Transporter has undercharged Shipper then Shipper will pay to Transporter the amount of the undercharge within thirty (30) days after the final determination of the amount of the undercharge. Shipper will not be liable for any interest on the amount of the undercharge unless that undercharge resulted from Shipper's error in which case Shipper will pay interest on the amount of the undercharge commencing with the date that the undercharged amount would have otherwise been payable and continuing until the date that Shipper pays that undercharge. The rate of interest under this section 6.6 will be calculated and adjusted in the manner provided for in section 6.4 except that the initial rate of interest will be the rate of interest which is one percent (1%) over and above the Prime Rate in effect on the first day of the month during which the overpayment was made or the underpayment was due, as the case may be.

6.7 Limitations on Disputes

In the event Shipper disputes any part of a bill, Shipper shall nevertheless pay to Transporter the full amount of the bill when payment is due. Payment of any bill under a Service Agreement will not prejudice the right of either Party to question the correctness thereof. Notwithstanding anything contained in these General Terms and Conditions, neither Party will be entitled to dispute the quantity of Natural Gas received or delivered nor the amount paid or payable with respect to any matter under a Service Agreement unless an issue in respect thereof is raised by notice to the other Party within twenty-four (24) months after the end of the month in which a bill was rendered, with a three month rebuttal period; provided that, this limitation shall not apply in the case of deliberate omission or misrepresentation or mutual mistake of fact.

6.8 Remedies for Non-Payment of Bill

- (a) If Shipper fails to pay the full amount of any bill within thirty (30) days after payment is due, Transporter, in addition to any other remedy it may have, may, upon providing at least twenty (20) days' notice to Shipper of its intention to do so, suspend all or any portion of Service to Shipper until full payment is made. Such suspension will not relieve Shipper from any obligation to pay any charge or other amount payable to Transporter.
- (b) In the event that it is finally determined that Shipper's monthly bill was incorrect and that an overpayment has been made, Transporter shall make reimbursement of such overpayment. Transporter shall pay interest on the overpayment to Shipper, commencing from the date such overpayment was made and continuing

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until the date reimbursement is actually made. The rate of interest under this section 6.8(b) will be calculated and adjusted in the manner provided for in section 6.4 except that the initial rate of interest will be the rate of interest which is one percent (1%) over and above the Prime Rate in effect on the first day of the month during which the overpayment was made or the underpayment was due, as the case may be.

6.9 Billing Verification

Within twenty-four (24) Months after the end of any Contract Year, any Shipper or its representatives shall have the right, at its own cost, during normal business hours, and with reasonable notice to inspect, examine, audit and retain copies, at all reasonable times, but no more frequently than once each Contract Year, the books of account and records of Transporter which relate to any Service Agreement to the extent necessary to verify the accuracy of any billing statement, charge, allocation, metering, measuring or computation made pursuant to any of the provisions of the Service Agreement including, but not limited to, Demand Charges, Commodity Charges, Rate Base, Annual Revenue Requirement, deferral accounts. Such books and records shall be preserved by Transporter for a period of three (3) years from the end of the Contract Year to which they refer, provided that if such books or records are related to any facts which are the subject of a duly noticed dispute between the Parties, then such books and records shall be preserved until such dispute is settled.

Where all or a portion of the subject matter of any audit would otherwise reasonably be considered to be precluded by legal restrictions from being provided to any Shipper, such audit shall be conducted by an independent auditor to be agreed upon by the Transporter, such agreement not to be unreasonably withheld or delayed, and the Shipper requesting the audit, who shall execute an undertaking of confidentiality in favour of the Transporter in respect of any information provided. The Shipper requesting the audit shall pay the costs of the independent auditor, unless otherwise agreed by the Parties.

Where two or more Shippers desire to conduct an audit, they shall make every reasonable effort to conduct the audit jointly, the cost of such audit will be borne by all Shippers that participate in the audit or who receive any related audit report. Nothing, however, shall prevent a Shipper from conducting an audit at its sole cost, provided that notification has been given to Transporter and other Shippers. Each audit shall be conducted so as to cause a minimum of inconvenience to the Transporter.

Audit field work will be completed at the latter of:

- (a) the date that Shipper(s)' auditors leave Transporter's offices; or
- (b) the date 30 Days after the date that all data or documentation reasonably requested while Shipper(s)' auditors were in Transporter's offices and all material related to such data or documentation has been provided to such Shipper.



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Within 60 Days of the completion of audit field work, unless Transporter has consented to that 60 Day period being extended, such consent not to be unreasonably withheld or delayed, Shipper who requested the audit shall provide notice of any discrepancies identified by it during the audit. Transporter shall respond to any claims of discrepancies within 90 Days of receipt of such claims. If Transporter agrees with a claim, then an adjustment shall be made within 25 Days. If Transporter does not agree with the claim then Transporter shall include with its response a detailed and relevant explanation. In the event Shipper and Transporter are unable to resolve any discrepancies, either party may submit the matter for dispute resolution before the National Energy Board.

Transporter shall pay to the Shippers any amounts to be credited to such Shipper as a result of an audit along with interest calculated using the Prime Rate in effect on the last Day of the Month for which the calculation is performed. Such interest shall accrue from the date that such party was first owed the claimed amounts to the date of payment. Payment shall be made promptly and, in any event, within 25 Days of the final resolution of such amount. The foregoing provisions apply mutatis mutandis to amounts to be credited to another party as a result of an audit.



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ARTICLE 7 SERVICE DESCRIPTION

7.1 Service Description

Subject to the terms and conditions specified in any Schedule of Service attached to a Service Agreement and these General Terms and Conditions, Service shall consist of:

- (a) the receipt of Natural Gas from Shipper at Shipper's Receipt Points;
- (b) the transportation of Natural Gas through the Transportation System; and
- (c) the delivery of Natural Gas to Shipper at the Delivery Point.

7.2 Receipt Point Transfers

Shipper may notify Transporter that it desires to transfer all or any portion of the Contract Demand Quantity for a Receipt Point which is set forth in a Schedule of Service to a Firm Service Transportation Agreement from that Receipt Point to another Receipt Point which is listed in such Schedule of Service or to a new Receipt Point which is to be listed on such Schedule of Service. Shipper's notice to Transporter will specify the particular Receipt Points involved in the requested transfer. Transporter will permit such requested transfer if:

- (a) Transporter determines that sufficient capacity for Service exists within the Transportation System to allow the requested transfer based on the assumption that all Interruptible Service will be curtailed to the extent necessary to accommodate the requested transfer;
- (b) the requested transfer will not result in Transporter incurring any additional costs or Shipper has agreed to reimburse Transporter for all such additional costs;
- (c) the Receipt Point from which capacity is being transferred does not have a surcharge or additional condition applicable to such Receipt Point as specified in such Schedule of Service; and
- (d) the Price Point in effect for Service under the Schedule of Service for the Receipt Point, from which Shipper wishes to transfer Service at the time of the transfer, applies to the new Schedule of Service for the Service that would be transferred to the new Receipt Point.

7.3 Toll Zones

Transporter's toll zones for purposes of determining tolls applicable to Receipt Points on the Transportation System are as follows:

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- (a) Long haul means Receipt Points on the Transportation System north of Little Chicago, a town in the Northwest Territories; and
- (b) Short haul means Receipt Points on the Transportation System south of Little Chicago, a town in the Northwest Territories.

7.4 Northwest Territories Delivery Rebate

Transporter will provide a rebate to each Shipper which makes deliveries of Natural Gas to any Delivery Point located in the Northwest Territories for use by a NWT Delivery Consumer. The amount of rebate for any delivery month to be paid by Transporter to Shipper which is transporting Natural Gas under a Schedule of Service for a 15 or 20 year term will be an amount equal to the product of fifty percent (50%) of the FS-20 Demand Charge for such delivery month and the quantity of Natural Gas, expressed in GJ, which was delivered by Shipper during such delivery month to such NWT Delivery Consumer. The anticipated amount of the NWT Delivery Rebate for a toll year will be included in the annual revenue requirement for such toll year.

Refer to the document titled Economic Lateral Test Methodology for further details on delivery laterals to the Northwest Territories communities.

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ARTICLE 8 POSSESSION AND RESPONSIBILITY

8.1 Possession of and Responsibility for Natural Gas

Shipper warrants to Transporter that it has title to or controls or has the right to deliver or have delivered for its own account, the Natural Gas that is to be received by the Transporter from Shipper under any Service Agreement. Title or other ownership rights relating to the Natural Gas delivered by Shipper and received by Transporter shall remain with Shipper:

- (a) Transporter shall have care custody and control of all Natural Gas from the time it is received by Transporter from Shipper at a Receipt Point until the Natural Gas is delivered by Transporter to Shipper at a Delivery Point.
- (b) Shipper will have no responsibility with respect to the Natural Gas while such Natural Gas is in Transporter's possession other than Shipper's obligation to provide System Use Gas and Shipper's potential liability arising from Shipper delivering Natural Gas that fails to meet any Quality Specification.

8.2 Line Pack Gas

Transporter will be responsible to provide all Line Pack Gas required to fill the Transportation System to its Maximum Operating Pressure. Transporter will purchase line pack from the shippers at AECO monthly index price less the Mackenzie Valley Pipeline Toll less the Nova Gas Transmission Limited receipt charge.

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ARTICLE 9 PRESSURES OF NATURAL GAS

9.1 Pressure of Natural Gas at Receipt Points

Shipper will make Natural Gas available at a Receipt Point at a pressure which is sufficient to enable Natural Gas to enter the Transportation System; provided that such pressure shall not exceed the Maximum Receipt Pressure established from time to time for such Receipt Point unless otherwise agreed to by Transporter.

9.2 Pressure Protection

Shipper will provide or cause to be provided suitable pressure relief devices, or pressure limiting devices, to protect the Mackenzie Valley Pipeline as Transporter may consider to be necessary to ensure that the pressure of Natural Gas received by Transporter from Shipper at any Receipt Point will not exceed the Maximum Receipt Pressure.

9.3 Pressure of Natural Gas at the Delivery Point

Transporter will make Natural Gas available at a Delivery Point at a pressure which is sufficient to enable Natural Gas to enter into the Connecting Operator's downstream system; provided that such pressure shall not exceed the maximum delivery pressure nor be less than the minimum delivery pressure established from time to time for such Delivery Point unless otherwise agreed to by Transporter.

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ARTICLE 10 SYSTEM USE GAS

10.1 Transporter's Natural Gas Requirements

- (a) Shipper shall, at no cost to Transporter, provide its proportionate share of System Use Gas, on a daily basis, in the amount requested by Transporter. On or before the twenty-fifth (25th) day of the Month for the following Month, Transporter will advise Shipper of the System Use Gas requirement for both long- and short-haul transportation. In the absence of such notification, Shipper shall use the last monthly System Use Gas requirement (specified on a fixed percentage basis) established by Transporter.
- (b) System Use Gas is comprised of the quantities of Natural Gas necessary for the normal day to day operation and maintenance of the Transportation System including the quantities of Natural Gas used as fuel for compressors, heaters or other equipment and the quantities of Natural Gas otherwise lost or unaccounted for in connection with the operation and maintenance of the Transportation System including Measurement Variance or Gas Lost.
- (c) System Use Gas will be required for Firm Service, Authorized Overrun Service and Interruptible Service.

10.2 Allocation of Transporter's Natural Gas Requirements

Each Shipper's share of the quantity of Transporter's Natural Gas requirements in such period for System Use Gas and Measurement Variance will be a quantity equal to the product of the total quantity of Transporter's Natural Gas requirements in such period and a fraction the numerator of which will be the aggregate quantity of Natural Gas received by Transporter from Shipper in such period at all of Shipper's Receipt Points and the denominator of which will be the aggregate quantity of Natural Gas received by Transporter from all Shippers in such period at all Receipt Points.

10.3 Transportation of System Use Gas Responsibility

Transporter shall be responsible for transportation of System Use Gas to its point of consumption (e.g., a compressor station downstream of a Receipt Point) and the expected quantities of System Use Gas to be supplied by a Shipper shall not be included in Shipper's Contract Demand Quantity pursuant to a Firm Service Transportation Agreement.

10.4 Balancing

The System Use Gas requirement will be balanced with actual quantities from the preceding period.

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ARTICLE 11 OPERATING PROCEDURES

11.1 Nominations

- (a) A nomination procedure involving structured and timely communication of the Transportation System capabilities and the transportation requirements of all Shippers will be developed in order to promote the effective and efficient operation of the Transportation System.
- (b) The nomination process to be established by Transporter will be complementary with any nomination processes of the Connecting Operators of the interconnecting downstream pipeline facilities at a Delivery Point, which reflect the Gas Industry Standards Board standard nomination cycles, and the interconnecting upstream facilities at a Receipt Point.

11.2 Shipper Annual Forecast

Not less than three (3) months prior to the commencement of Shipper's first and each subsequent Contract Year and upon Transporter's request, Shipper shall provide Transporter with an estimate of Shipper's anticipated deliveries at each Receipt Point set out in a Schedule of Service attached to a Service Agreement for each month of such Contract Year. Such estimates shall not affect Shipper's rights to make nominations in accordance with section 11.1.

11.3 Transporter's Firm Service Delivery Obligation

Subject to the terms and conditions specified in these General Terms and Conditions, Transporter's delivery obligation under Shipper's Firm Service Transportation Agreements will be to deliver to Shipper at the Delivery Point, on each day, an aggregate quantity of Natural Gas equal to the aggregate of the quantities of Natural Gas received into the Transportation System by Transporter from the Shipper at each Receipt Point under Shipper's Firm Service Transportation Agreements up to the portion of the Shipper's Daily Authorized Quantity which was scheduled by Transporter for Firm Service during such day at each such Receipt Point, less the quantity of Natural Gas to be allocated to Shipper in accordance with section 10.2, less any quantity of Natural Gas which Shipper is making up in accordance with subsection 12.2(b) plus any quantity of Natural Gas which Shipper is receiving in accordance with subsection 12.2(c).

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11.4 Operating Agreements

Transporter may enter into agreements and other operating arrangements with a Connecting Operator respecting the balancing of Natural Gas quantities to be received or delivered by Transporter and to be received or delivered by the Connecting Operator at the Interconnection Point, including agreements and operating arrangements providing that a quantity of Natural Gas nominated by a Shipper for delivery at the Interconnection Point may be deemed to have been received or delivered by Transporter and received or delivered by the Connecting Operator regardless of the actual flow of Natural Gas at the Interconnection Point.

11.5 Uniform Flow Rate

Transporter will not be obligated to accept from Shipper at any Receipt Point a quantity of Natural Gas which in any one hour exceeds five percent (5%) of the Shipper's Daily Authorized Quantity then in effect at such Receipt Point.

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ARTICLE 12 GAS BALANCING AND TOLERANCES

12.1 Balancing

Shipper shall use reasonable efforts to adjust its Natural Gas receipts and Natural Gas deliveries on a daily basis to maintain a balance between quantities of Natural Gas received at the Receipt Point(s), adjusted for System Use Gas, and quantities of Natural Gas delivered at the Delivery Point(s). Shipper may be subject to penalties for failure to operate reasonably in this regard. Transporter shall, in good faith, assist Shipper in avoiding such penalties. The payment of such penalties shall not relieve Shipper from its obligation to resolve the outstanding imbalances.

Transporter shall use reasonable efforts to tolerate Shipper imbalances due to temporary fluctuations of the physical capability of the Transportation System, giving due consideration to flexibility available to Transporter to fluctuate Line Pack Gas and the ability to adjust the operational balancing agreements with interconnecting facilities.

12.2 Monthly Gas Imbalances

- (a) After each Delivery Month, Transporter will make a determination of the level of Shipper's Inventory.
- (b) The "Cumulative Imbalance" shall be the absolute value of the accumulation of the daily differences between the actual quantities received from Shipper at the Receipt Point(s), adjusted for System Use Gas, and the actual quantities taken by Shipper at the Delivery Point(s). Any Cumulative Imbalances confirmed by month-end allocation adjustments by the Connecting Operator from an upstream facility, shall be eliminated by Shipper by adjusting Shipper's nominations. Such actions will be taken during the second month following the Delivery Month to which the Shipper's Inventory relates (the "Makeup Period").
- (c) If Shipper's Cumulative Imbalance exceeds the tolerance level at the end of the Makeup Period due to Shipper's failure to take action, Transporter shall be entitled to suspend on two (2) hours' notice to shipper all or a portion of Service to such Shipper, provided however such suspension shall not relieve Shipper of its obligation to pay any rate, toll charge or other amount payment to Transporter



GENERAL TERMS AND CONDITIONS

ARTICLE 13 SCHEDULING OF SERVICE AND CURTAILMENTS

13.1 Notice of Change in Operations

Shipper and Transporter will give each other as much notice as is reasonably possible in the circumstances of expected temporary changes in the rates of delivery or receipt of Natural Gas, pressures or other operating conditions, together with the expected duration and the reason for such expected temporary changes.

13.2 Service Priority at Receipt Points

- (a) When Transporter is issuing its confirmations of nominations in accordance with section 11.1, Firm Service at any Receipt Point will be given first priority, provided that, if Transporter determines that the capacity available to serve all Shippers requesting Firm Service at such Receipt Point will not be sufficient to permit Transporter to schedule all of the quantities of Firm Service requested at such time then Transporter will allocate the available capacity to such Shippers pro rata on the basis of the Contract Demand Quantity at such Receipt Point as set forth in the Schedule of Service under their Firm Service Transportation Agreements.
- (b) When Transporter is issuing its confirmations of nominations in accordance with section 11.1, AOS at any Receipt Point will be given second priority; provided that, if Transporter determines that the capacity available to serve all Shippers requesting AOS at such Receipt Point will not be sufficient to permit Transporter to schedule all of the quantities of AOS requested at such time then Transporter will allocate the available capacity to such Shippers pro rata on the basis of CDQ.
- (c) When Transporter is issuing its confirmations of nominations in accordance with section 11.1, Interruptible Service at any Receipt Point will be given third priority; provided that, if Transporter determines that the capacity available to serve all Shippers requesting Interruptible Service at such Receipt Point will not be sufficient to permit Transporter to schedule all of the quantities of Interruptible Service requested at such time then Transporter will allocate the available capacity to such Shippers pro rata on the basis of the quantities of Interruptible Service requested by such Shippers for that day at such Receipt Point.

13.3 Curtailment at Receipt Points

If, at any time, Transporter determines that capacity on the Transportation System, or any portion thereof, is not sufficient to allow Transporter to satisfy all confirmations of nominations issued in accordance with section 11.1 at any Receipt Point, then Transporter will curtail or interrupt Service in the following priority and sequence:



Imperial Oil



ConocoPhillips



Shell Canada

ExxonMobil

GENERAL TERMS AND CONDITIONS

- (a) Transporter will first curtail or interrupt Interruptible Service pro rata on the basis of the quantities of Interruptible Service scheduled at such Receipt Point;
- (b) Transporter will next curtail or interrupt AOS at such Receipt Point pro rata based on each of the Firm Shipper's Contract Demand Quantity; and
- (c) Transporter will last curtail or interrupt Firm Service at such Receipt Point pro rata on the basis of the Contract Demand Quantity at such Receipt Point as set forth in the Schedules of Service under their Firm Service Transportation Agreements.

13.4 Interruptible Service Curtailments

Shipper agrees that Interruptible Service at any Receipt Point is subject to curtailment at any time at Transporter's sole discretion. Upon being notified of any curtailment of Interruptible Service, Shipper will take all necessary actions to reduce its deliveries of Natural Gas to Transporter under Interruptible Service in order to give effect to Transporter's curtailment notification as of the effective time of such curtailment notice.

13.5 AOS Curtailments

Shipper agrees that AOS at any Receipt Point is subject to curtailment at any time if operational problems arise on the Transportation System. Upon being notified of any curtailment of AOS at Receipt Point, Shipper will take all necessary actions to reduce its deliveries of Natural Gas to Transporter at such Receipt Point under AOS in order to give effect to Transporter's curtailment notification as of the effective time of such curtailment notice.

13.6 Firm Service Interruptions and Curtailments

- (a) **Planned Interruptions.** Provided that Transporter shall have given Shipper at least forty-eight (48) hours' notice, Transporter may interrupt, curtail or reduce Service for such periods of time as it may reasonably require for the purpose of effecting any repairs, maintenance, replacement or upgrading or other work related to the Facilities.
- (b) **Unplanned Interruptions.** Notwithstanding paragraph 13.6(a), in the event of unforeseen circumstances Transporter may interrupt, curtail or reduce Service for such periods of time as it may reasonably require without giving Shipper the Notice provided for in paragraph 13.6 (a) provided that Transporter shall give Notice of such interruption, curtailment or reduction as soon as is reasonably possible.

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ARTICLE 14 DEMAND CHARGE CREDITS

14.1 Credits

A credit to the Demand Charge payable under a Firm Service Transportation Agreement (“Demand Charge Credit”) will be provided by Transporter to Shipper if Transporter has failed to provide transportation services for an amount of Natural Gas which was properly nominated by Shipper for Firm Service, was available for delivery at the Receipt Point and which satisfied all quality specifications and all other obligations of Shipper under the Tariff. Demand Charge Credits relating to any month will be applied against the Demand Charges payable in respect of such month.

14.2 Relief Limitation

No Demand Charge Credit will be provided if Transporter's failure to accept Natural Gas was a result of:

- (a) any scheduled or unscheduled maintenance on the Transportation System or an Event of Force Majeure claimed by Transporter, during the first twelve (12) months of any such event;
- (b) an Event of Force Majeure claimed by Shipper;
- (c) Shipper's inability or failure to deliver Natural Gas at the Receipt Point; or
- (d) capacity constraints on the Transportation System arising from the ambient temperature being higher than the design ambient temperature utilized in the design of the Transportation System.

14.3 Sole Remedy

The provision of Demand Charge Credits will be Transporter's sole obligation and will be Shipper's sole remedy for any failure of Transporter to provide Firm Service to Shipper.



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ARTICLE 15 FORCE MAJEURE

15.1 Notice of Force Majeure

If either Transporter or Shipper is rendered unable by reason of Force Majeure to perform in whole or in part any covenant or obligation set forth in any Service Agreement or these General Terms and Conditions, the performance of such covenant or obligation will be suspended during the continuance of such Force Majeure, except as provided for in section 15.5, upon the following terms and conditions:

- (a) the Party claiming suspension will give written notice to the other Party specifying full particulars of such Force Majeure as soon as is reasonably possible;
- (b) the Party claiming suspension will diligently attempt to remedy such Force Majeure by taking all commercially reasonable acts in order to resume the performance of such covenant or obligation with reasonable dispatch; and
- (c) the Party claiming suspension will give written notice to the other Party as soon as is reasonably possible after such Force Majeure has been remedied.

15.2 Events of Force Majeure

For the purposes of these General Terms and Conditions, the term "force majeure" shall mean any cause not reasonably within the control of the party claiming suspension which by the exercise of due diligence such party is unable to prevent or overcome, including but without limiting the generality of the foregoing:

- (a) lightning, storms, earthquakes, landslides, floods, washouts, and other acts of God;
- (b) fires, explosions, ruptures, breakages of or accidents to the Facilities;
- (c) freezing of pipelines or wells, hydrate obstructions of pipelines or appurtenances thereto, temporary failure of gas supply;
- (d) shortages of necessary labour, strikes, lockouts or other industrial disturbances;
- (e) civil disturbances, sabotage, acts of public enemies, war, blockades, insurrections, vandalism, riots, epidemics;
- (f) arrests and restraints of governments and people;



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- (g) the order of any court, government body or regulatory body;
- (h) inability to obtain or curtailment of supplies of electric power, water, fuel or other utilities or services;
- (i) inability to obtain or curtailment of supplies of any other materials or equipment;
- (j) inability to obtain or revocation or amendment of any permit, license, certificate or authorization of any governmental or regulatory body, unless the revocation or amendment of such permit, license, certificate or authorization was caused by the violation of the terms thereof or consented to by the party holding the same;
- (k) the failure for any reason of a supplier of gas to Shipper or a purchaser of gas from Shipper to supply and deliver gas to Shipper or to purchase and take delivery of gas from Shipper; and
- (l) any claim by any third party that any covenant or obligation of such third party is suspended by reason of force majeure, including without limiting the generality of the foregoing any such claim by any transporter of gas to, from or for Transporter or Shipper.

15.3 Shipper's Obligations

Notwithstanding any other provision of these General Terms and Conditions, Shipper acknowledges and agrees that the occurrence of an event of Force Majeure will not under any circumstances suspend or relieve Shipper from the obligation to pay any Demand Charges or other amount payable to Transporter; provided that, Shipper shall remain entitled to a Demand Charge Credit where provided for pursuant to section 14.1.

15.4 Events not Force Majeure

Notwithstanding any other provision of these General Terms and Conditions, the Parties agree that the following events will not under any circumstances be an event of Force Majeure.

- (a) a lack of funds or other financial cause
- (b) loss of market or market demand
- (c) insufficient Natural Gas supply

GENERAL TERMS AND CONDITIONS

15.5 Event of Force Majeure

Notwithstanding any other provision of these General Terms and Conditions, the Parties agree that insufficient total Natural Gas supplies being delivered by all Shippers pursuant to all Service Agreements such that Transporter cannot operate the Transportation System will be an event of Force Majeure.

15.6 Strikes and Lockouts

Notwithstanding any other provision of these General Terms and Conditions, the Parties agree that the settlement of strikes, lockouts and other industrial disturbances will be entirely within the discretion of the Party involved.

15.7 Service During Force Majeure

If the provision of Service is curtailed or interrupted by reason of Force Majeure, Transporter may during the continuance of such Force Majeure provide such Service as it deems appropriate but to the extent that it is reasonable to do so considering the operation of the Transportation System at the time of such curtailment or interruption Transporter will follow the curtailment priority outlined in section 13.3.

15.8 Right to Terminate

A Party shall have the right to terminate a Service Agreement if the other Party's substantial or total performance impairment caused by a single Event of Force Majeure has been claimed by such other Party for a period of twenty-four (24) consecutive months or more and has not been remedied before notice of termination is given.

GENERAL TERMS AND CONDITIONS

ARTICLE 16 CAPACITY ALLOCATION OR RELEASE

16.1 Capacity Allocation or Release

- (a) Shipper may allocate or release to another shipper its Firm Service entitlement for its Contract Demand Quantity or any portion thereof and the AOS related thereto, by providing advance notice to Transporter; provided that any such allocation or release for any period in excess of three hundred and sixty five (365) days shall be subject to the prior written consent of Transporter, not to be unreasonably withheld.
- (b) In conjunction with Section 16.1 (a), a Firm Shipper shall be entitled to make consecutive allocations or releases of any portion of its Firm Service entitlement, and the AOS related thereto, to the same shipper.
- (c) Notwithstanding any allocation or release by a Firm Shipper to another shipper, the Firm Shipper will remain responsible for all of Firm Shipper's obligations under the Firm Service Transportation Agreement and the Tariff in respect of its entire Contract Demand Quantity.

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ARTICLE 17 TAXES AND ROYALTIES

17.1 Shipper Responsibility

Shipper will be responsible for any taxes, royalties, fees or charges levied or assessed upstream of a Receipt Point or downstream of a Delivery Point in respect of Shipper exploring for, recovering, producing, processing, transporting, storing, supplying or selling Natural Gas.

Shipper will be responsible for any taxes, fees or charges levied or assessed against Shipper, or those that are intended by law to be borne by Shipper, in respect of the transportation of Natural Gas on the Transportation System.



Imperial Oil



ConocoPhillips



Shell Canada

ExxonMobil

GENERAL TERMS AND CONDITIONS

ARTICLE 18 FINANCIAL ASSURANCES

18.1 Letter of Credit

If required pursuant to a Service Agreement, the Letter of Credit shall:

- (a) on the date it is issued, be in a sum equal to the amount which Shipper will be obligated to pay Transporter under a Firm Service Transportation Agreement during the next twelve (12) month period;
- (b) be issued for an initial period that is no less than the lesser of twelve (12) months from the initial date of issue or one hundred and twenty (120) days beyond the expiry of the Primary Term of a Firm Service Transportation Agreement;
- (c) unless waived by Transporter and the Lenders, be renewed or replaced no less than ninety (90) days before its expiry date, for a period that is no less than the lesser of twelve (12) months from the date of expiry of the initial, renewal or replacement Letter of Credit or one hundred and twenty (120) days beyond the expiry of the Primary Term of a Firm Service Transportation Agreement and for an amount no less than that stipulated in (a) above in this definition of "Letter of Credit";
- (d) be transferable to any Lender;
- (e) provide that Transporter shall have the right to draw upon the same in the event of Shipper's failure to pay amounts due Transporter under a Service Agreement or renew the Letter of Credit when required hereunder;
- (f) be immediately reinstated to the full amount set forth in (a) following a valid draw by Transporter;
- (g) be payable upon the execution and presentation by an officer of Transporter of a sight draft to the issuer of such Letter of Credit supported by a signed statement of Transporter that Shipper failed to pay amounts due Transporter under a Service Agreement or renew or replace the Letter of Credit when required hereunder; and
- (h) be in a form and substance reasonably acceptable to Transporter.

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ARTICLE 19 SERVICE REQUEST

19.1 Requests for New or Additional Service

A shipper seeking Service from Transporter must submit a request for Service in the form set forth herein and containing the information described herein. No Natural Gas will be scheduled for receipt and delivery until a completed Service request form has been provided and shipper's credit evaluation is satisfactory. If Transporter determines that shipper's request for Service does not comply with this Article 19 or shipper's credit evaluation is not satisfactory, Transporter shall, within twenty (20) days of receiving shipper's request, provide shipper with written notice of the deficiencies and the additional information or changes required to complete the request. Shipper shall have the right for a period of ten (10) days after such notice to supplement shipper's request as required to comply with this Article 19, including but not limited to supplemental information supporting Shipper's credit worthiness. Transporter shall, within ten (10) days of receiving any additional information or changes from shipper, provide shipper with written notice of whether shipper's request, as supplemented, is satisfactory. If shipper's request, as supplemented, remains incomplete and deficient, then shipper's request shall be deemed void.

A shipper seeking service on the Transportation System must submit a request for Service in the following form (a "Request For Service"):

Imperial Oil Resources Venture Limited
c/o Marketing Manager
237 Fourth Avenue S.W.
P.O. Box 2480, Station "M"
Calgary, Alberta
T2P 3M9

_____ ("Shipper") hereby requests transportation Service from Imperial Oil Resources Venture Limited ("Transporter") and hereby provides the following information in connection with this request:

- (a) Complete legal name of Shipper
- (b) Type of legal entity and province of incorporation
- (c) The specific affiliation and ownership arrangements between Shipper and an Affiliated Guarantor or other Performance Assurance Provider that provides Performance Assurances in favour of Shipper, if any.

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- (d) (i) Name of person responsible for this request; address, telephone and facsimile numbers to which correspondence or other communications should be directed. State relationship to Shipper.
- (ii) Name, address, telephone number and facsimile number of 24-hour contact person(s) for purposes of gas control.
- (e) Type of Service requested (Firm Service or Interruptible Service)
- (f) Contract Demand Quantity stated in GJ per day
- (g) Requested Date Of Commencement of the Service
- (h) Requested term of Service: fifteen (15) years or twenty (20) years
- (i) Requested Receipt Point(s)
- (j) Requested Delivery Point(s)
- (k) For Firm Service, will Shipper accept a partial allocation of capacity, beyond any specified minimum amount, in the event Transporter is unable to satisfy the full request (while maintaining the balance of the Service request)?
- _____ Yes _____ No
- If Yes, Minimum Amount: _____ GJ/d
- (l) Submission of this request shall constitute certification that, prior to the commencement of construction:
- (1) Shipper has or will have title to, or a good right to tender for transportation (and all necessary authorizations related thereto), the Natural Gas to be transported by Transporter.
- (2) Shipper has or will enter into all necessary third-party transportation agreements to transport the Natural Gas to the party ultimately receiving the Natural Gas.

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- (m) Shipper hereby agrees to pay Transporter the currently effective transportation toll applicable to this Service. In the case of Firm Service requiring the construction of additional facilities, Shipper agrees to pay tolls as approved by the National Energy Board designed, inter alia, to reimburse Transporter for the cost of construction of such additional facilities. Shipper, by its signature, represents to Transporter that the information set forth in this transportation request is correct and accurate and that all necessary transportation arrangements with the Connecting Operators, as stated herein, have been or will be secured prior to the commencement of the requested transportation Services.

Date: _____

Signature: _____

Name: _____

Title: _____

- (n) Shipper will be required to execute a Firm Service Transportation Agreement with the Transporter.



Imperial Oil



ConocoPhillips



Shell Canada

ExxonMobil

GENERAL TERMS AND CONDITIONS

ARTICLE 20 EXPANSION POLICY

20.1 Additional Capacity

After the Mackenzie Valley Pipeline has been constructed it is anticipated that additional capacity can be made available through the installation of additional compressor stations along the mainline pipeline. The purpose of this policy is to describe Transporter's anticipated procedures for consideration of requests for Service which will require the construction of additional facilities.

20.2 National Energy Board Requirement

In all matters dealing with expansions, Transporter will follow the requirements set out in the NEB Act, including without limitation Section 62 "Tolls to be just and reasonable", Section 67 "No unjust discrimination", Section 71(3) "Extension of facilities" and Section 72 "Extension of services of gas pipeline companies".

20.3 Request for Service

Transporter will administer requests for new Service in a manner which provides fair and equitable treatment to all Shippers and prospective Shippers. It is currently contemplated that Transporter's procedure for handling requests for new Service will include:

- (a) the submission of a Request For Service by a prospective Shipper;
- (b) the submission by a prospective Shipper of all supporting information required by such form;
- (c) when Transporter has received sufficient requests for Service, Transporter will conduct an open season for the purpose of evaluating additional market interest in an expansion;
- (d) if Transporter determines that there is sufficient interest for an expansion expressed as a result of the open season, it will prepare precedent Firm Service Transportation Agreements relating to such expansion;
- (e) such precedent Firm Service Transportation Agreements must be executed by prospective Shippers;
- (f) prospective Shippers must meet all requirements under such precedent Firm Service Transportation Agreements including those dealing with creditworthiness and Natural Gas supply information;

GENERAL TERMS AND CONDITIONS

- (g) the length of the term of the Firm Service Transportation Agreement resulting from such precedent agreements is expected to be fifteen (15) years or twenty (20) years, with Service beyond the date that is twenty (20) years after the Date Of Commencement of deliveries on the Mackenzie Valley Pipeline being contingent on Transporter continuing to operate the Transportation System during such period in a manner substantially similar to the manner in which Transporter was operating the Transportation System at the end of such twenty (20) year period;
- (h) if satisfactory precedent Firm Service Transportation Agreements are entered into and the Pipeline owners are prepared to proceed, Transporter will make the necessary regulatory applications subject to the terms of such precedent agreements; and
- (i) prior to Transporter's preparation of any regulatory application relating to an expansion, Transporter will canvas all Shippers to determine if any Shipper has an interest in assigning all, or a portion of its contracted capacity to one or more prospective Shippers.

20.4 Toll Benefit

It is currently contemplated that the tolls for an expansion would be determined on a rolled-in basis and the provisions set out in the Toll Principles that are attached to a Service Agreement would be applicable to determine the tolls for such expansion Service. Tolls for an expansion would also be established on the principle that tolls for Service under any Firm Service Transportation Agreement which has a shorter term will be higher than tolls for service under a Firm Service Transportation Agreement with a longer term. It is expected that the premium for shorter term Firm Service Transportation Agreements, if ever offered, would always be equal to or greater than the amount of the FS-15 Toll Premium, or the FSSH-15 Toll Premium, as is applicable.

20.5 Transporter Rights

Nothing in this statement of policy in respect of expansions shall require Transporter to file an application under Part III of the NEB Act nor prevent Transporter from contesting an application for the provision of facilities filed pursuant to Section 71(3) of the NEB Act or a request to compel the rendition of service pursuant to Section 71(2) of the NEB Act. Transporter reserves the right to seek a waiver from the National Energy Board in respect of any matter addressed in the policy set forth in this Article 20 for good cause shown during any proceeding before the National Energy Board.

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ARTICLE 21 ELECTRONIC COMMUNICATION

21.1 Access to All Shippers

Transporter will make available, at no additional charge to Shippers, the ECS for use by Shippers. The ECS is an interactive system pursuant to which Shippers shall submit nominations and monitor their accounts. The ECS shall be available on a non-discriminatory basis to any Shipper provided that such Shipper agrees to comply with the procedures for access to the ECS and with the procedures for use of the ECS.

21.2 Electronic Notification

For generic, system-wide notices, any provisions of this Tariff requiring that these matters be in writing are satisfied by Transporter utilizing electronic transmission through the ECS in accordance with the procedures for utilization of the ECS. The provisions of this Tariff requiring that certain matters be in writing are satisfied by Shipper utilizing electronic transmission through the ECS in accordance with the procedures for utilization of the ECS. All other provisions, including Service Agreement specific notices, requiring items or information to be in writing remain unchanged unless otherwise agreed by Transporter and Shipper. Critical system-wide notices shall have a separate category from notices that are not critical.

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ARTICLE 22 MISCELLANEOUS PROVISIONS

22.1 Entire Agreement

A Service Agreement including its Schedules of Service and Table of Rates together with these General Terms and Conditions constitutes the entire agreement between the Parties and supersedes all previous agreements, understandings, negotiations and representations between the Parties.

22.2 Confidentiality

The Parties shall treat all information exchanged between them in accordance with the Pipeline Code of Conduct.

22.3 Conflict of Interest

The Parties shall treat matters arising from Conflicts of Interest in accordance with the Pipeline Code of Conduct.

22.4 Enurement

A Service Agreement will enure to the benefit of and be binding upon the Parties and their respective successors and assigns.

22.5 No Consequential Damages

Neither Party will be liable for any:

- (a) indirect, consequential, special, punitive nor exemplary damages;
- (b) loss of profits or income;
- (c) loss of business expectations, business interruptions; and
- (d) loss of contract, cost of capital, loss or failure to deliver Natural Gas, cost of purchased or replacement Natural Gas, cancellation of permits or any claims for losses or damages sustained by any third party arising out of any tort or breach of any obligation under a Service Agreement or these General Terms and Conditions.

22.6 Transporter Limitation of Liability

- (a) Transporter shall have no liability to Shipper, nor obligation to indemnify and save harmless Shipper, in respect of Transporter's failure for any reason

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whatsoever, other than Transporter's willful default, to provide Service pursuant to the provisions of Shipper's Service Agreement; and

- (b) the failure by Transporter for any reason whatsoever to receive gas from Shipper or deliver gas to Shipper shall not suspend or relieve Shipper from the obligation to pay any rate, toll, charge or other amount payable to Transporter.

22.7 No Interest in Facilities

Shipper does not acquire any right to, title to, or interest in, the Transportation System or any part thereof nor does Transporter dedicate any portion of the Transportation System to Service for any Shipper.

22.8 Inconsistency

If there is an inconsistency between any provision of these General Terms and Conditions and any provision of any Schedule of Service the provisions of the Schedule of Service will prevail.

22.9 Amendment of Service Agreement

No amendment or variation of any term, condition or provision of any Service Agreement will be of any force or effect unless in writing and signed by Transporter and Shipper.

22.10 Establishment of Procedures and Pilot Projects

Transporter may from time to time establish procedures including procedures for carrying out and evaluating any pilot projects Transporter determines to be necessary or desirable, respecting or relating to affecting any Service or any term, condition or provision contained within any Service Agreement or these General Terms and Conditions.

22.11 Amendment of General Terms and Conditions

Shipper acknowledges and accepts that Transporter will have the right to make such amendments to the General Terms and Conditions as Transporter may from time to time determine to be necessary or advisable. It is Transporter's general intention to revise the General Terms and Conditions to be consistent with all recommendations of the Gas Industry Standards Board which are accepted by other pipelines which interconnect with the Transportation System. Transporter will give Shipper written notice of any amendments to the General Terms and Conditions and such amendments will be effective as of the date specified in such amended General Terms and Conditions but any such effective date will not be retroactive.

SCHEDULE A

FIRM SERVICE TRANSPORTATION AGREEMENT

This Schedule A forms part of the General Terms and Conditions for Firm Transportation dated the __ day of _____, 20__ and shall be deemed to be attached thereto.

**FIRM SERVICE TRANSPORTATION AGREEMENT
MACKENZIE VALLEY PIPELINE**

Between:

IMPERIAL OIL RESOURCES VENTURES LIMITED

- and -

[SHIPPER]

_____, 20__

IORVL Agreement No. _____.

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SCHEDULES

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FIRM SERVICE TRANSPORTATION AGREEMENT

MACKENZIE VALLEY PIPELINE

This Firm Service Transportation Agreement is made as of the _____ day of _____, 20__ between:

IMPERIAL OIL RESOURCES VENTURES LIMITED, a Canadian corporation, with an office in the City of Calgary, in the Province of Alberta ("**IORVL**" or "**Transporter**"),

- and -

[Shipper], a **[•]**, with an office in the City of **[•]**, in the Province of **[•]** ("**Shipper**").

RECITALS:

WHEREAS, Imperial Oil Resources Ventures Limited, the Mackenzie Valley Aboriginal Pipeline Limited Partnership ("**MVAPLP**"), ConocoPhillips Canada (North) Limited, Shell Canada Limited and ExxonMobil Canada Properties are currently proposing to develop a new natural gas pipeline system (the "**Mackenzie Valley Pipeline**") which is currently proposed to be a single phase NPS • (•) mainline pipeline with an initial design capacity of approximately • 10^6 m^3 (• Bcf) per day, at a design pressure of • Mpa (• psi) originating near the outlet of a processing facility to be located near Inuvik and terminating at the point of interconnection with the facilities of NOVA Gas Transmission Ltd. located in northwestern Alberta near the Northwest Territories-Alberta border, with an anticipated in service date of •;

AND WHEREAS, Transporter proposes to construct and operate the Transportation System for and on behalf of the Pipeline Owners and will be designated by the Pipeline Owners to be the operator of the Transportation System;

AND WHEREAS, Transporter and Shipper were parties to a Precedent Agreement dated the • day of •, 20• (the "**Precedent Agreement**") which will be superceded by this Firm Service Transportation Agreement;

AND WHEREAS, subject to the terms and conditions of this Firm Service Transportation Agreement, Transporter will apply for all remaining governmental and other Authorizations which are or may be required to enable Transporter to construct and operate the Mackenzie Valley Pipeline;

AND WHEREAS, Shipper has requested that Transporter transport and Transporter has agreed to transport quantities of Natural Gas that are delivered by Shipper to Transporter at the Receipt Point to the Delivery Point, as specified in the Schedule of Service, all in accordance with and subject to the terms and conditions of this Firm Service Transportation Agreement.

NOW THEREFORE, in consideration of the mutual covenants and agreements herein contained, the Parties agree as follows:

ARTICLE 1 INTERPRETATION

1.1 Definitions

Except as specifically provided herein, all words and phrases used herein and defined in the Tariff shall have the same meanings as ascribed to them in the General Terms and Conditions. In this Firm Service Transportation Agreement, including the Recitals and Schedules, the following words and phrases have the following meanings:

"**Affiliate**" means a corporation, partnership or trust that is affiliated with the Party for which the expression is being applied, and, for the purpose of this definition:

- (a) a corporation, partnership or trust is affiliated with another corporation, partnership or trust if it directly or indirectly controls or is controlled by that other corporation, partnership or trust and for the purpose of determining whether a corporation, partnership or trust so controls or is so controlled, it will be deemed that:
 - (i) a corporation is directly controlled by another corporation, partnership or trust if shares of the corporation to which are attached more than 50% of the votes that may be cast to elect directors of the corporation are beneficially owned by that other corporation, partnership or trust and the votes attached to those shares are sufficient, if exercised, to elect a majority of the directors of the corporation;
 - (ii) subject to (a)(iii), a partnership is directly controlled by another partnership, corporation or trust if that partnership, corporation or trust beneficially owns more than a 50% interest in the partnership;
 - (iii) a limited partnership is controlled by the Person that controls the general partner of such limited partnership or, if there is more than one general partner, by any Person that controls a general partner or general partners having more than a 50% aggregate voting interest in the limited partnership;
 - (iv) a trust is controlled by the Person that is entitled to elect or appoint the majority of the trustees of the trust; and
 - (v) a corporation, partnership or trust is indirectly controlled by another corporation, partnership or trust if control, as defined in (a)(i) through (iv) above, is exercised through one or more other corporations, partnerships or trusts; and

- (b) where two or more corporations, partnerships or trusts are affiliated at the same time with the same corporation, partnership or trust, they will be deemed to be affiliated with each other;

"Affiliated Guarantor" means either an Affiliate of Shipper which has guaranteed the obligations of Shipper in accordance with the provisions of Section 4.7 or Section 5.7 or an Affiliate of an assignee which has guaranteed the obligations of such assignee pursuant to Section 10.1;

"Alternate Pipeline" has the meaning ascribed thereto in Section 4.5;

"APG Equity Investors" means those investors which provide equity or subordinate debt to the MVAPLP for the Transportation System;

"APG Senior Lenders" means those banks, financial institutions or other senior investors which provide senior credit facilities to the MVAPLP for the Transportation System;

"Applicable Debt" has the meaning ascribed to it in Section 4.7(a);

"Authorities" means all governmental and regulatory authorities and other bodies, to the extent, having valid jurisdiction or authority over or in respect of: (a) the Transportation System, including the NEB and the MVLWB; and (b) any Shipper's Authorization;

"Authorizations" means all those necessary governmental and regulatory authorizations required from the Authorities, including any supplements or amendments thereto and any exemptions therefrom as the context may require;

"Authorized Overrun Service" or **"AOS"** means the Service to be provided pursuant to Article 7;

"Business Day" means any day of the week except Saturday, Sunday and those days that are a statutory holiday in the Province of Alberta;

"COGOA" means the *Canada Oil and Gas Operations Act* (Canada), as amended from time to time and includes any Canadian federal legislation enacted in replacement thereof;

"Commissioned" means that those facilities which are required to provide the Service described in the Firm Service Transportation Agreement have been completed, tested and are available to provide service and that leave to open such facilities has been granted by the NEB and **"Commission"** and derivatives thereof have corresponding meanings;

"Commodity Charge" means the Commodity Charge, if any, described in the Tariff;

"Contract Demand Quantity" means the quantity of Natural Gas, expressed in GJ per day, as set out on the Schedule of Service, contracted for by Shipper hereunder for Firm Service and for which Shipper has agreed to pay the Demand Charge and Commodity Charges in accordance with the provisions of this Firm Service Transportation Agreement and the General Terms and Conditions;

"Controlling Party" means in respect of Shipper, any corporation, partnership or trust which exercises direct or indirect control over Shipper and for the purpose of determining whether a corporation, partnership or trust directly or indirectly controls Shipper it will be deemed that:

- (a) if Shipper is a corporation, then it is directly controlled by any other corporation, partnership or trust if shares of Shipper to which are attached more than 50% of the votes that may be cast to elect directors of Shipper are beneficially owned by that other corporation, partnership or trust and the votes attached to those shares are sufficient, if exercised, to elect a majority of the directors of Shipper;
- (b) subject to (c), if Shipper is a partnership, then it is directly controlled by another partnership, corporation or trust if that other partnership, corporation or trust beneficially owns more than a 50% interest in the partnership;
- (c) if Shipper is a limited partnership, then it is directly controlled by the Person that controls the general partner of such limited partnership or, if there is more than one general partner, by any Person that controls a general partner or general partners having more than a 50% aggregate voting interest in the limited partnership;
- (d) if Shipper is a trust, then it is directly controlled by the Person who is entitled to elect or appoint the majority of the trustees of the trust; and
- (e) Shipper is indirectly controlled by another corporation, partnership or trust if control as defined in (a) through (d) above, as the case may be, is exercised over Shipper through one or more other corporations, partnerships or trusts;

"CPCN" means a certificate of public convenience and necessity issued by the NEB pursuant to Part III of the NEB Act, in respect of the Mackenzie Valley Pipeline, after the issuance of same has been approved by the Governor in Council;

"Date of Commencement" means the date referred to in Section 5.2;

"day" means any calendar day;

"Delivery Point" means the point of interconnection between the Transportation System and the facilities of NOVA located in northwest Alberta near the Northwest Territories-Alberta border or any upstream point of interconnection between the Transportation System and any downstream pipeline facilities, as set out in the Schedule of Service;

"Demand Charge" means the FS-15 Demand Charge, the FS-20 Demand Charge, the FSSH-15 Demand Charge or the FSSH-20 Demand Charge, as applicable, as described in the Tariff;

"Excise Tax Act" means the *Excise Tax Act* (Canada), as amended from time to time and includes any Canadian federal legislation enacted in replacement thereof;

"Fifteen Year FSTA's" means those firm service transportation agreements executed by Transporter and shippers within one hundred and twenty (120) days of the Trigger Date which

have a Primary Term extending for a fifteen (15) year period commencing on the first day of the month next following the month in which the date of commencement of service thereunder occurred, including those firm service transportation agreements pursuant to which short-haul transportation is being provided;

"Firm Service Transportation Agreement" means this agreement, as may be amended from time to time;

"General Terms and Conditions" means the general terms and conditions relating to the Transportation System as set out in the Tariff;

"Independent Resources Evaluator" means the third party reservoir engineering consulting firm retained by the APG Senior Lenders and the APC Equity Investors, for the sole purpose of preparing a Lending and Investment Report in accordance with Section 4.6(f) or Section 5.9(e);

"Issuer Rating" means the opinion of a particular Rating Agency of the ability of a shipper or its Affiliated Guarantor to honour senior unsecured financial obligations and contracts without taking into account any form of credit enhancements, with such opinion focusing on the capacity and willingness of a shipper or its Affiliated Guarantor to meet its financial commitments as they come due;

"Lenders" means any banks, financial institutions or investors, including any Pipeline Owner or an Affiliate of a Pipeline Owner, which, in any case, provides either construction or long term debt financing to a Pipeline Owner in respect of the Transportation System;

"Lending and Investment Report" means a consolidated resources report, commissioned by the APG Senior Lenders and the APG Equity Investors, prepared by an Independent Resources Evaluator, of resources and supplies of Natural Gas proposed to supply the Natural Gas being transported by all shippers on the Mackenzie Valley Pipeline or the Transportation System, as the case may be. The consolidated resources report shall reflect and contain identifiable field resources assessments as reasonably required by the APG Senior Lenders and the APG Equity Investors;

"Letter of Credit" means an irrevocable letter of credit issued in favour of Transporter by a bank, trust company or other financial institution which has a combined capital surplus of at least one billion dollars and whose unsecured, unsubordinated, non credit enhanced long term debt is rated, in each case, no lower than: A2 by Moody's Investor Service, A by Standard and Poor's and A by Dominion Bond Rating Service or the then equivalent rating used by any such Rating Agency in substitution or replacement for such rating. The Letter of Credit shall: (a) on the date it is issued, be in a sum equal to the amount which Shipper will be obligated to pay Transporter under this Firm Service Transportation Agreement during the next twelve (12) month period; (b) be issued for an initial period that is no less than the lesser of twelve (12) months from the initial date of issue or one hundred and twenty (120) days beyond the expiry of the Primary Term of this Firm Service Transportation Agreement; (c) unless waived by Transporter and the Lenders, be renewed or replaced no less than ninety (90) days before its expiry date, for a period that is no less than the lesser of twelve (12) months from the date of expiry of the initial, renewal or replacement Letter of Credit or one hundred and twenty (120) days beyond the expiry of the

Primary Term of this Firm Service Transportation Agreement and for an amount no less than that stipulated in (a) above in this definition of "Letter of Credit"; (d) be transferable to any Lender; (e) provide that Transporter shall have the right to draw upon the same in the event of Shipper's failure to pay amounts due Transporter under this Firm Service Transportation Agreement or renew the Letter of Credit when required hereunder; (f) be immediately reinstated to the full amount set forth in (a) following a valid draw by Transporter; (g) be payable upon the execution and presentation by an officer of Transporter of a sight draft to the issuer of such Letter of Credit supported by a signed statement of Transporter that Shipper failed to pay amounts due Transporter under this Firm Service Transportation Agreement or renew the Letter of Credit when required hereunder; and (h) be in a form and substance reasonably acceptable to Transporter;

"Minimum Ratings Requirement" means, for a particular Rating Agency, the minimum rating set out for such Rating Agency in Schedule C or the then equivalent rating used by any such Rating Agency in substitution or replacement for such minimum rating;

"MVLWB" means the Mackenzie Valley Land and Water Board established pursuant to the MVRMA or any replacement or successor regulatory or governmental authority or authorities having jurisdiction to approve the use of land and water in the Mackenzie Valley;

"MVRMA" means the *Mackenzie Valley Resource Management Act* (Canada), as amended from time to time and includes any legislation enacted in replacement thereof;

"Natural Gas" means any hydrocarbons or mixture of hydrocarbons and other gases, consisting primarily of methane, which at a temperature of fifteen (15) degrees Celsius and an absolute pressure of 101.325 kPa, is in the gaseous state;

"NEB" means the National Energy Board of Canada established by the NEB Act or any replacement or successor regulatory or government authority or authorities having jurisdiction over the approval, licencing, construction, operation, tolls or tariff of interprovincial pipelines in Natural Gas service under the NEB Act or jurisdiction to approve certain activities under COGOA;

"NEB Act" means the *National Energy Board Act* (Canada), as amended from time to time and includes any Canadian federal legislation enacted in replacement thereof;

"NOVA" means NOVA Gas Transmission Ltd. and its successors and assignees;

"NPS XX" means the nominal pipe size where XX is the nominal outside diameter of the pipe, expressed in inches. NPS 30 is a nominal thirty (30) inch diameter pipe;

"Party" means a party to this Firm Service Transportation Agreement and **"Parties"** means both parties to this Firm Service Transportation Agreement;

"Performance Assurance" means any assurance of performance of Shipper's obligations under this Firm Service Transportation Agreement which may be provided in cash, by a letter of credit or other form of security or other assurance, in an amount and a form acceptable to Transporter,

acting reasonably, from time to time by a Performance Assurance Provider in favour of Transporter;

"Performance Assurance Provider" means Shipper, its Affiliated Guarantor or any third party which is providing a Performance Assurance for or on behalf of such Shipper;

"Person" means an individual, a partnership, a limited partnership, a corporation, a limited or unlimited liability company, a trust, an unincorporated organization, a union, a government and the heirs, executors, administrators or other legal representatives of an individual;

"Phase 1 and 2 Permits" means those Transporter's Authorizations for the construction of the Mackenzie Valley Pipeline for which a public hearing is either required (Phase 1 Permits) or may be required at the election of the Authority responsible for granting such Permits (Phase 2 Permits), as determined by Transporter;

"Pipeline Owners" means those Person which are owners of the Transportation System at a particular time, or are parties to the agreement to develop the Mackenzie Valley Pipeline if the Mackenzie Valley Pipeline does not yet exist at such time and, as of the date hereof are •, •, • and •;

"Primary Term" is the period of time commencing on the Date of Commencement and extending through either a twenty (20) or fifteen (15) year period, as specified in the Schedule of Service, with the start of such period being at the commencement of the first day of the month next following the month in which the Date of Commencement occurred;

"Rating Agency" means any one of the credit rating agencies set out in Schedule C;

"Receipt Point" means the point of interconnection between an upstream gathering pipeline, compression station or processing facility and the Transportation System, as set out in the Schedule of Service;

"Schedule of Service" means Schedule D;

"Shipper's Authorizations" means those Authorizations listed in the most recent notice, which Shipper has provided to Transporter in accordance with Section 4.3 and **"Shipper's Authorization"** means any one of them;

"Shipper Default" has the meaning ascribed to it in Section 9.2;

"Tariff" means the tolls, terms and conditions, as filed with and approved by the NEB, under which Transporter will transport Natural Gas on the Transportation System including the General Terms and Conditions;

"Tariff Principles" has the meaning ascribed to it in Schedule B;

"Toll Principles" has the meaning ascribed to it in Schedule A;

"Transporter's Authorizations" means any remaining Authorizations which Transporter determines are necessary as set out in Section 4.2 and a **"Transporter's Authorization"** means any one of them;

"Transporter Default" has the meaning ascribed to it in Section 9.1;

"Transporter's Start-up Notice" means the notice referred to in Section 4.9;

"Transportation System" means the Mackenzie Valley Pipeline, any replacement thereof or expansion thereto and includes all facilities installed from time to time to provide service under any firm service transportation agreement; and

"Trigger Date" means (i) the date upon which the last of the Phase 1 and 2 Permits has been granted by the Authorities, or (ii) if, prior to the date upon which the last of the Phase 1 and 2 Permits has been granted by the Authorities, the Pipeline Owners has decided upon an earlier date, such earlier date so determined, or (iii) if prior to the date upon which the last of the Phase 1 and 2 Permits has been granted by the Authorities, the Pipeline Owners have decided upon a later date, such later date so determines;

"Twenty Year FSTA's" means those firm service transportation agreements executed by Transporter and shippers within one hundred and twenty (120) days of the Trigger Date which have a Primary Term extending for a twenty (20) year period commencing on the first day of the month next following the month in which the date of commencement of service thereunder occurred, including those firm service transportation agreements pursuant to which short-haul transportation is being provided.

1.2 Schedules

The following schedules are attached to and made part of this Firm Service Transportation Agreement:

Schedule A - TOLL PRINCIPLES

Schedule B – TARIFF PRINCIPLES

Schedule C – RATING AGENCIES AND MINIMUM RATINGS REQUIREMENT

Schedule D – SCHEDULE OF SERVICE.

1.3 Interpretation and References

Whenever the singular or masculine or neuter is used in this Firm Service Transportation Agreement the same will be construed as meaning plural or feminine or body politic or corporate and vice versa where the context or the parties hereto so require. References to Recitals, Articles, Sections, or Schedules are references to the Recitals, Articles, Sections, and Schedules of this Firm Service Transportation Agreement. Words such as "hereunder", "hereto" and "herein" and similar expressions refer to the whole of this Firm Service Transportation Agreement and not to any particular Section, or Schedule hereof. The word "including" shall mean including without limitation.

1.4 Transporter's Actions

In all situations under this Firm Service Transportation Agreement, excluding Section 10.1(a)(ii), where Transporter is required or entitled to provide its consent or approval in respect of any matter or is permitted to exercise its discretion in any way, Transporter shall be entitled to take any action or exercise its discretion in the manner which takes into account, the views of, the requirements of or the recommendations of any Lender. In acting upon any such views, requirements or recommendations including views, requirements or recommendations to withhold any consent or approval, Transporter shall not be considered to have acted unreasonably hereunder.

ARTICLE 2 TERM

2.1 Term

Subject to Section 4.1 and Section 5.1, this Firm Service Transportation Agreement shall become effective as of the date hereof and shall continue in effect until the end of the Primary Term or the final day of any extension effected pursuant to Section 2.3, unless this Firm Service Transportation Agreement is terminated earlier pursuant to any provision hereof.

2.2 Decision to Proceed with Project

The Pipeline Owners will notify Transporter as to whether or not the Pipeline Owners are electing to proceed with the construction of the Mackenzie Valley Pipeline. If the Pipeline Owners advise Transporter that the Pipeline Owners will not be proceeding with the construction of the Mackenzie Valley Pipeline for any reason whatsoever, then Transporter may elect to terminate this Firm Service Transportation Agreement upon providing notice to Shipper and all other shippers which have firm service transportation agreements with Transporter with such termination being effective ten (10) Business Days after the date such termination notice was sent by Transporter; provided that Transporter shall only be entitled to terminate this Firm Service Transportation Agreement pursuant to this Section 2.2 if such termination notice is sent on or before the later of: (a) the date that is one year from the Trigger Date; or (b) the date that is ninety (90) days after the date that all legal proceedings, which may have been initiated by any Person in respect of any Transporter's Authorization, have been concluded and all appeal periods relating thereto have expired.

2.3 Renewal Right

Shipper shall have the right to extend the term of this Firm Service Transportation Agreement beyond the Primary Term for further annual periods of a minimum of one (1) year by providing written notice to Transporter to that effect not less than three (3) years prior to the expiration of the Primary Term or any extended term, as the case may be; provided that Shipper shall not have the right to extend the term of this Firm Service Transportation Agreement for any period of time which is beyond the twenty (20) year period commencing on the first day of the month next following the month in which the Date of Commencement occurred, unless Transporter is and plans to continue to operate the Transportation System during the entire requested extension period in a manner which is substantially similar to the manner in which Transporter was

operating the Transportation System at the end of such twenty (20) year period. Any such extension may be for all or any portion of the then current Contract Demand Quantity.

2.4 Termination for Failure to Commence Service

If Transporter has not provided Transporter's Start-up Notice Pursuant to Section 4.9 on or before the third anniversary date of the expected in-service date as estimated by Transporter at the date of this Firm Service Transportation Agreement, or such later date as may be agreed to by the Parties, then either Party may elect to terminate this Firm Service Transportation Agreement by providing notice to the other Party. This Firm Service Transportation Agreement shall terminate on the sixtieth (60th) day after the date that such notice was provided unless on or before such date Transporter has provided Transporter's Start-Up Notice pursuant to Section 4.9.

2.5 NEB Leave to Abandon Application

Transporter shall provide Shipper with a copy of any application made by Transporter pursuant to Section 74(1)(d) of the NEB Act requesting leave of the NEB to abandon the operation of Transportation System.

ARTICLE 3 REPRESENTATIONS AND WARRANTIES

3.1 Representations and Warranties of Transporter

Transporter represents and warrants that:

- (a) it is duly organized and validly existing under the laws of Canada and has all requisite legal power and authority to execute this Firm Service Transportation Agreement and carry out the terms, conditions and provisions hereof;
- (b) this Firm Service Transportation Agreement constitutes a valid, legal and binding obligation of Transporter, enforceable in accordance with the terms hereof subject only to laws of general application applying to equitable remedies and the enforcement of creditor's remedies;
- (c) there are no actions, suits or proceedings pending or, to Transporter's knowledge, threatened against or affecting Transporter before any court or Authority that might materially and adversely affect the ability of Transporter to meet and carry out its obligations under this Firm Service Transportation Agreement;
- (d) the execution and delivery by Transporter of this Firm Service Transportation Agreement has been duly authorized by all requisite corporate actions and all requisite actions of the Pipeline Owners; and
- (e) it has or will have, at the relevant time, all requisite authority from the Pipeline Owners to take or to refrain from taking any action that Transporter may be entitled to take hereunder.

3.2 Representations and Warranties of Shipper

Shipper represents and warrants that:

- (a) it is duly organized and validly existing under the laws of _____ and has all requisite legal power and authority to execute this Firm Service Transportation Agreement and carry out the terms, conditions and provisions hereof;
- (b) this Firm Service Transportation Agreement constitutes a valid, legal and binding obligation of Shipper, enforceable in accordance with the terms hereof subject only to laws of general application applying to equitable remedies and the enforcement of creditor's remedies;
- (c) there are no actions, suits or proceedings pending or, to Shipper's knowledge, threatened against or affecting Shipper before any court or Authority that might materially and adversely affect the ability of Shipper to meet and carry out its obligations under this Firm Service Transportation Agreement; and
- (d) the execution and delivery by Shipper of this Firm Service Transportation Agreement has been duly authorized by all requisite [**corporate, partnership or trust**] action.

ARTICLE 4 PRE DATE OF COMMENCEMENT OBLIGATIONS OF PARTIES

4.1 Applicability to Pre Date of Commencement Period

The provisions set out in Article 4 of this Firm Service Transportation Agreement shall only apply until the Date of Commencement.

4.2 Application for Remaining Transporter's Authorizations

Transporter will proceed with due diligence to apply for and obtain from all Authorities such remaining Transporter's Authorizations which Transporter determines are necessary:

- (a) for the construction and operation of the Mackenzie Valley Pipeline and to render the Service as contemplated in this Firm Service Transportation Agreement and other firm service transportation agreements entered into with other shippers, including the issuance by the NEB of a CPCN; and
- (b) to perform Transporter's obligations as contemplated in this Firm Service Transportation Agreement;

Transporter reserves the right to file and prosecute any and all applications for such remaining Authorizations, any supplements and amendments thereto, and, if necessary, any court review, in such manner as it deems to be in the Pipeline Owners' best interest. Transporter shall advise all Shippers on an ongoing basis, in a timely fashion and in any event not less frequently than every

six (6) months, of the status of such applications. Upon the request of Shipper, Transporter will also provide Shipper, in a timely fashion, with a copy of any application made by Transporter for any significant remaining Transporter's Authorization and a copy of each significant remaining Transporter's Authorization upon receipt of same.

4.3 Listing of Shipper's Authorizations

Within thirty (30) days of the date hereof Shipper will provide a notice to Transporter specifically listing the Authorizations which Shipper or an Affiliate of Shipper will be seeking in connection with:

- (a) the development of a particular gas field or gas fields including approval of the NEB under COGOA; and
- (b) the construction of pipeline gathering facilities to connect such gas field to the Receipt Point;

in relation to the Natural Gas which is to be shipped by Shipper under this Firm Service Transportation Agreement. From time to time thereafter, and no less frequently than once every six (6) months, Shipper shall provide a notice to Transporter which sets out a current listing of Shipper's Authorizations and identifies any additions, changes or deletions to the immediately preceding listing of Shipper's Authorizations.

4.4 Application for Shipper's Authorizations

Shipper may file and prosecute any and all applications for Shipper's Authorizations, any supplements or amendments thereto, and, if necessary, any court review, in such manner as it deems to be in its best interest; provided that Shipper shall not take any action which would obstruct, interfere with or delay the receipt by Transporter of the authorizations or exemptions and supplements and amendments thereto contemplated hereunder or otherwise jeopardize implementation of the Mackenzie Valley Pipeline. Shipper shall advise Transporter on an ongoing basis, in a timely fashion and in any event not less frequently than every six (6) months, of the status of such applications. Shipper will notify Transporter when an application for a Shipper's Authorization has been filed with an Authority. Upon the request of Transporter, Shipper will also provide Transporter, in a timely fashion, with a copy of any application made by Shipper for any Shipper's Authorization and a copy of each Shipper's Authorization upon receipt of same; provided that Shipper shall not be required to provide Transporter with any information in connection with any application for a Shipper's Authorization which was filed and accepted by an Authority, on a confidential basis.

4.5 Support for Transporter

Shipper will and will cause its Affiliates to actively support any application to be made by Transporter for any remaining Transporter's Authorization where Transporter reasonably believes that Shipper's support would be of assistance in obtaining approval from any Authority in respect of such Transporter's Authorization provided that Shipper shall not be precluded from raising concerns about the Toll Principles and Tariff Principles before the National Energy Board. Shipper will not take and will not cause any of its Affiliates, to take or omit to take any

action where such action or omission would be inconsistent with the performance by Shipper of the terms of this Firm Service Transportation Agreement. The Parties acknowledge that during the period prior to the Commencement Date, proposals may be made by a third party for the construction of a pipeline or pipelines from the Mackenzie Delta or through the Mackenzie Valley (an "**Alternate Pipeline**") other than the Mackenzie Valley Pipeline. From the date hereof until January 1, 2011, and provided that construction of the Mackenzie Valley Pipeline has commenced by January 1, 2011, from January 1, 2011 until the Date of Commencement, Shipper will not make, or agree to make, and will not cause any of its Affiliates to make, or agree to make with any Person involved with an Alternate Pipeline:

- (a) any commitment for the transportation, on such Alternate Pipeline, of any Natural Gas which is to be shipped by Shipper utilizing the transportation service to be provided under this Firm Service Transportation Agreement; or
- (b) any commitment for the transportation, on such Alternate Pipeline, of any other Natural Gas produced in Canada, unless Shipper or such of its Affiliates has first afforded Transporter a reasonable opportunity to enter into an arrangement to provide transportation service for such Natural Gas.

Nothing in this Section 4.5 shall preclude Shipper or any of its Affiliates from making any commitment for the transportation of Natural Gas produced in Canada on any pipeline located wholly upstream of the Mackenzie Valley Pipeline which interconnects with the Mackenzie Valley Pipeline. Nothing in this Section 4.5 shall be interpreted as a dedication of any particular Natural Gas resources of Shipper to this Firm Service Transportation Agreement.

4.6 Information

- (a) Within ten (10) Business Days of Transporter's request, Shipper will provide Transporter with any information available to Shipper and required by Transporter in connection with any application to be made by Transporter for a remaining Transporter's Authorization, including information relating to Shipper's resources and supply of Natural Gas which is to be shipped by Shipper utilizing the transportation service to be provided under this Firm Service Transportation Agreement, the deliverability of such Natural Gas, upstream and downstream transportation arrangements and market arrangements; provided that Shipper will not be required to supply any information other than that which may be necessary for Transporter to comply with the requirements of the particular Authority which will be reviewing such Transporter Authorization. Shipper further agrees to provide witnesses, respond to any requests for further information and to prepare any necessary evidence as may be reasonably required to assist Transporter in obtaining any Transporter's Authorization; provided that Shipper shall not be obligated to participate in or incur any costs associated with any judicial review relating to any such application.
- (b) Subject to Section 4.6(d), Shipper shall make available to Transporter, upon Transporter's request, the audited consolidated financial statements of Shipper and its Affiliated Guarantor or other Performance Assurance Provider, if any, setting

forth in comparative form the corresponding figures of the preceding fiscal year together with an auditors report thereon, prepared in accordance with Shipper's, its Affiliated Guarantor's or other Performance Assurance Provider's usual practice for such financial statements. Such financial statements shall be provided within one hundred and twenty (120) days after the end of each fiscal year of Shipper, its Affiliated Guarantor or other Performance Assurance Provider, as applicable. Transporter may, at its sole discretion, accept unaudited consolidated financial statements.

- (c) Subject to Section 4.6(d), Shipper shall make available to Transporter, upon Transporter's request, the unaudited consolidated financial statements of Shipper and its Affiliate Guarantor or other Performance Assurance Provider, if any, prepared on a basis consistent with the corresponding period of the preceding fiscal year. Such financial statements shall be provided within sixty (60) days after the end of the third fiscal quarter of each fiscal year of Shipper, its Affiliated Guarantor or other Performance Assurance Provider, as applicable.
- (d) If a Shipper does not have audited financial statements or unaudited financial statements or if such statements are not generally publicly disclosed by such Shipper then such Shipper will be relieved of its obligations pursuant to Section 4.6(b) and Section 4.6(c); provided that such Shipper has an Affiliated Guarantor or other Performance Assurance Provider and such Affiliated Guarantor or other Performance Assurance Provider has provided the financial statements referred to in Section 4.6(b) within the one hundred and twenty (120) day period referred to in Section 4.6(b) and the financial statements referred to in Section 4.6(c) within the sixty (60) day period referred to in Section 4.6(c) in respect of such Affiliated Guarantor or other Performance Assurance Provider in lieu of such Shipper providing its financial statements.
- (e) Shipper shall make available and shall cause any Affiliated Guarantor or other Performance Assurance Provider to make available to Transporter any additional information regarding the business affairs, operations, assets and financial condition of Shipper or any Affiliated Guarantor or other Performance Assurance Provider as Transporter may reasonably request from time to time in order to assess the creditworthiness of Shipper or any Affiliated Guarantor or other Performance Assurance Provider. Shipper shall provide and shall cause any Affiliated Guarantor or other Performance Assurance Provide to provide the requested information within ten (10) Business Days of Transporter's request.
- (f) If, at any time the MVAPLP is seeking to finance an ownership interest in the Mackenzie Valley Pipeline, the MVAPLP requires a Lending and Investment Report to be prepared, the MVAPLP will so advise Transporter. Upon being so notified, Transporter shall provide a notice to Shipper that a Lending and Investment Report is to be prepared. Within five (5) Business Days of the receipt of such notice from Transporter, Shipper will advise the MVAPLP as to which one (1) of the following three (3) types of information that Shipper elects to

provide access to the Independent Resources Evaluator, for the sole purpose of preparing a Lending and Investment Report:

- (i) all relevant, available non-public resource and supply data in Shipper's possession, which is reasonably required by the Independent Resources Evaluator;
- (ii) interpretations of all relevant, available public and non-public resource and supply data that have been prepared by Shipper; provided that the Independent Resources Evaluator shall have the right to audit such interpretations and shall have access to such non-public resource or supply data that it reasonably requires for the purpose of preparing a Lending and Investment Report; or
- (iii) interpretations of all relevant, available public and non-public resource and supply data that have been prepared for Shipper by an independent third party consulting reservoir engineering firm; provided that the Independent Resources Evaluator shall have the right to audit such interpretations and shall have access to such non-public resource or supply data that it reasonably requires for the purpose of preparing a Lending and Investment Report;

in order that the Independent Resources Evaluator may provide an assessment of the economically recoverable resources and the deliverability associated therewith, which relate to the resources and supply of Natural Gas from commercial discoveries and Significant Discovery Licences and any other resources and supply, that, in the expectation and judgment of Shipper, acting reasonably, is to be transported by Shipper on the Mackenzie Valley Pipeline under this Firm Service Transportation Agreement. Shipper shall also, to the extent reasonably required by the Independent Resources Evaluator, arrange for any of Shipper's Affiliates to provide access to the Independent Resources Evaluator, to any such relevant available data, or interpretations thereof, as the case may be, in accordance with Shipper's election as to the type of information that it will provide access to the Independent Resources Evaluator, in respect of such resources and supply of Natural Gas that is not in Shipper's possession but that is in the possession of such Affiliate. Within thirty (30) days of Shipper's receipt of a notice from Transporter that a Lending and Investment Report is to be prepared, Shipper shall provide access to the Independent Resources Evaluator in accordance with Shipper's election which it made to the MVAPLP. Nothing in this Section 4.6(f) shall require Shipper or any of Shipper's Affiliates to provide access to the Independent Resources Evaluator to:

- (i) any interpretations of such data which have been prepared by Shipper or any of Shipper's Affiliates unless Shipper has elected to do so;

- (ii) any such data, or interpretations thereof, which Shipper or any of Shipper's Affiliates is precluded from disclosing because of third party confidentiality restrictions; or
- (iii) any such data, or interpretations thereof, more frequently than once in any one (1) year period.

While Shipper will endeavour to provide resource and supply data, or interpretations thereof, that are accurate, such data, or interpretations thereof, are provided with no representations or warranties as to their accuracy or completeness. Such resource and supply data, or interpretations thereof, will only be required to be provided if the Independent Resources Evaluator has first entered into a confidentiality agreement with Shipper and such Affiliates of Shipper, on terms and conditions which are satisfactory to Shipper and such Affiliates of Shipper, acting reasonably, agreeing to: maintain all such data, or interpretations thereof, confidential; not disclose to any other Person including any APG Senior Lender or any APG Equity Investor any such data, or interpretations thereof which have been provided by Shipper to the Independent Resources Evaluator; and only use such data, or interpretations thereof, for the purpose of assessing the quantities of Natural Gas which would be available for transportation on the Mackenzie Valley Pipeline in connection with the preparation of a Lending and Investment Report. The Independent Resources Evaluator will be entitled to provide a Lending and Investment Report to those APG Senior Lenders and APG Equity Investors which have also entered into a confidentiality agreement with Shipper and such Affiliates of Shipper, which has been executed by an officer of the APG Senior Lender or the APG Equity Investor, as the case may be, on terms and conditions which are satisfactory to Shipper and such Affiliates of Shipper, acting reasonably, agreeing to maintain all such information contained in such Lending and Investment Report confidential and to only use such report for the purpose of assessing the quantities of Natural Gas which would be available for transportation on the Mackenzie Valley Pipeline; provided that the Independent Resources Evaluator shall not provide a Lending and Investment Report to any APG Equity Investor which is an active participant in the oil and gas exploration or production sector or to any APG Equity Investor, other than a financial institution, which has an Affiliate which is an active participant in the oil and gas exploration or production sector, unless Shipper and such Affiliates of Shipper provide their prior consent, such consent to not be unreasonably withheld. Transporter shall consult with Shipper and all other shippers which have firm service transportation agreements with Transporter in an attempt to ascertain the names of those third party consulting reservoir engineering firms which would be acceptable to such shippers as an Independent Resources Evaluator. Transporter shall provide the names of such third party consulting reservoir engineering firms to the MVAPLP for subsequent referral by the MVAPLP to the APG Senior Lenders and the APG Equity Investors. Any information to be supplied pursuant to this Section 4.6(f) is in addition to the Natural Gas supply information to be supplied to Transporter pursuant to Section 4.6(a).

4.7 Credit Requirement at Firm Service Transportation Agreement Execution Date

Shipper shall either confirm, as of the date of this Firm Service Transportation Agreement, that the facts set out in Section 4.7(a) are true and correct in respect of Shipper or its Affiliated Guarantor, as applicable, or that it has complied with Section 4.7(b).

- (a) Shipper, or its Affiliated Guarantor, as applicable, has a credit rating for its unsecured, unsubordinated, non credit enhanced long term debt ("**Applicable Debt**") from a Rating Agency that meets the minimum threshold rating as specified for such Ratings Agency in Schedule C (the "**Minimum Ratings Requirement**"), provided that:
 - (i) long term debt, as determined at any date, means the indebtedness of a Shipper or its Affiliated Guarantor, as applicable, which would be classified as such on its balance sheet in accordance with generally accepted accounting principles in Canada or, at the option of Shipper if Shipper or its Affiliated Guarantor, as applicable, trades on a United States stock exchange, in accordance with generally accepted accounting principles in the United States, and which in all events matures by its terms at a date more than one year after the date of determination; and
 - (ii) if the Applicable Debt of a Shipper or its Affiliated Guarantor, as applicable, is rated by more than two Rating Agencies, at least two of such ratings, established by such Rating Agencies, must meet the Minimum Ratings Requirement for such Rating Agency;

provided that if Shipper or its Affiliated Guarantor, as applicable, does not have any Applicable Debt or its Applicable Debt has not been rated by any Rating Agency, then Shipper confirms that Shipper, or its Affiliated Guarantor, as applicable has obtained an Issuer Rating from at least one of the Rating Agencies meeting the Minimum Ratings Requirements of such Ratings Agency.

- (b) Shipper or its Affiliated Guarantor or other Performance Assurance Provider has provided Performance Assurances to Transporter, which are satisfactory to Transporter, provided that the monetary value of Shipper's obligations under this Firm Service Transportation Agreement during the period prior to the Date of Commencement shall never be considered to be less than an amount of \$625 for each GJ per day of the Contract Demand Quantity.

If Shipper, its Affiliated Guarantor or other Performance Assurance Provider is unable to comply with Section 4.7(a) or Section 4.7(b), then Transporter shall have the right at any time from and after the date hereof, until the Date of Commencement, to terminate this Firm Service Transportation Agreement with immediate effect by providing a termination notice to Shipper.

4.8 Change in Financial Circumstances Prior to the Date of Commencement

If, at any time prior to the Date of Commencement, Transporter has reasonable grounds for believing that:

- (a) Shipper or its Affiliated Guarantor or other Performance Assurance Provider, as applicable, may be unable to meet its obligations under this Firm Service Transportation Agreement or under any Performance Assurance, for which purposes the monetary value of Shipper's obligations under this Firm Service Transportation Agreement prior to the Date of Commencement shall never be considered to be less than an amount of \$625 for each GJ per day of Contract Demand Quantity; or
- (b) the financial circumstances of Shipper or its Affiliated Guarantor or other Performance Assurance Provider, as applicable, have deteriorated since the date of this Firm Service Transportation Agreement, and in the reasonable opinion of Transporter have reached an unacceptable level;

then Transporter may provide notice to Shipper, stating its reasonable grounds and requesting a new or replacement Performance Assurance. If Shipper, its Affiliated Guarantor or other Performance Assurance Provider is unable or unwilling to provide a Performance Assurance which is satisfactory to Transporter within thirty (30) days of receipt of Transporter's notice, then Transporter shall have the right thereafter to terminate this Firm Service Transportation Agreement with immediate effect by providing a termination notice to Shipper.

4.9 Transporter's Start-up Notice

Transporter shall advise Shipper, from time to time, and at least once every three (3) months as to the date when Transporter estimates that Service will be available under this Firm Service Transportation Agreement. Transporter may give Shipper notice of the actual date of availability of Service under this Firm Service Transportation Agreement ("**Transporter's Start-up Notice**"), at any time after the date that is the later of:

- (a) the date that Commissioning has occurred; or
- (b) the date that NOVA has facilities in place at the point of interconnection with the Mackenzie Valley Pipeline in northwestern Alberta near the Northwest Territories – Alberta border, which could be utilized by NOVA to provide receipt point transportation service from such point on NOVA's system to any shipper.

ARTICLE 5 POST DATE OF COMMENCEMENT OBLIGATIONS OF PARTIES

5.1 Applicability to Post Date of Commencement Period

The provisions set out in Article 5 of this Firm Service Transportation Agreement, other than Section 5.3, shall only apply from and after the Date of Commencement.

5.2 Commencement of Service

The date of commencement of Service under this Firm Service Transportation Agreement (the "**Date of Commencement**") shall be the earlier of:

- (a) the first day for which Shipper makes a nomination and for which Transporter authorizes Service hereunder; or
- (b) the tenth (10th) day following the day on which Shipper received Transporter's Start-up Notice.

5.3 First Month's Nominations

At least five (5) Business Days prior to the Date of Commencement, Shipper shall provide Transporter with its best estimate of its Shipper's nominations for each of the days in the thirty (30) consecutive day period beginning on the Date of Commencement.

5.4 Demand Charge

Shipper shall pay the applicable Demand Charge based on the Contract Demand Quantity from the Date of Commencement in accordance with the General Terms and Conditions. For greater certainty, this obligation of Shipper to pay the Demand Charge shall continue whether or not Natural Gas is actually transported, and is not subject to abatement under any circumstances, except as specifically provided for in the General Terms and Conditions.

5.5 Commodity Charge

Shipper shall pay the Commodity Charge, if any, for all of Shipper's actual deliveries of Natural Gas from the Date of Commencement in accordance with the General Terms and Conditions.

5.6 Natural Gas to be Transported

Subject to the provisions of this Firm Service Transportation Agreement and the Tariff:

- (a) Transporter shall provide daily transportation service hereunder for Shipper, for quantities of Natural Gas delivered by Shipper up to the Contract Demand Quantity, from the Receipt Point identified in Shipper's nomination for Firm Service to the Delivery Point identified in Shipper's nomination for Firm Service; and
- (b) Transporter may provide daily transportation service hereunder for Shipper, for quantities of Natural Gas delivered by Shipper, from the Receipt Point identified in Shipper's nomination for AOS to the Delivery Point identified in Shipper's nomination for AOS, in respect of Authorized Overrun Service determined in accordance with Article 7.

5.7 Credit Requirement at Date of Commencement

Shipper shall either confirm, as of the Date of Commencement, that the facts set out in Section 5.7(a) are true and correct in respect of Shipper or its Affiliated Guarantor, as applicable, or that it has complied with Section 5.7(b).

- (a) Shipper, or its Affiliated Guarantor, as applicable, has a credit rating for its Applicable Debt from a Rating Agency that meets the Minimum Ratings Requirement for such Ratings Agency, provided that:
 - (i) long term debt, as determined at any date, means the indebtedness of a Shipper or its Affiliated Guarantor, as applicable, which would be classified as such on its balance sheet in accordance with generally accepted accounting principles in Canada or, at the option of Shipper if Shipper or its Affiliated Guarantor, as applicable, trades on a United States stock exchange in accordance with generally accepted accounting principles in the United States, and which in all events matures by its terms at a date more than one year after the date of determination; and
 - (ii) if the Applicable Debt of a Shipper or its Affiliated Guarantor, as applicable, is rated by more than two Rating Agencies, at least two of such ratings, established by such Rating Agencies, must meet the Minimum Ratings Requirement for such Rating Agency;

provided that if Shipper or its Affiliated Guarantor, as applicable, does not have any Applicable Debt or its Applicable Debt has not been rated by any Rating Agency, then Shipper confirms that Shipper, or its Affiliated Guarantor, as applicable has obtained an Issuer Rating from at least one of the Rating Agencies meeting the Minimum Ratings Requirements of such Ratings Agency.

- (b) Shipper or its Affiliated Guarantor or other Performance Assurance Provider has provided Performance Assurances to Transporter, which are satisfactory to Transporter, provided that Shipper shall be deemed to have satisfied its obligations under this Section 5.7(b) if it or its Affiliated Guarantor or other Performance Assurance Provider as applicable, provides and maintains a Letter of Credit in favour of Transporter in an amount equal to the total amount which Shipper will be obligated to pay Transporter under this Firm Service Transportation Agreement for the next twelve (12) month period and such amount shall be adjusted annually to reflect any change in the estimated total amount payable hereunder for the next succeeding twelve (12) months.

If Shipper, its Affiliated Guarantor or other Performance Assurance Provider is unable to comply with Section 5.7(a) or Section 5.7(b), then Transporter shall have the right at any time from and after the Date of Commencement to terminate this Firm Service Transportation Agreement with immediate effect by providing a termination notice to Shipper.

5.8 Change in Financial Circumstances after the Date of Commencement

If, at any time after the Date of Commencement, Transporter has reasonable grounds for believing that:

- (a) Shipper or its Affiliated Guarantor or other Performance Assurance Provider, as applicable, may be unable to meet its obligations under this Firm Service Transportation Agreement or under any Performance Assurance; or
- (b) the financial circumstances of Shipper or its Affiliated Guarantor or other Performance Assurance Provider, as applicable, have deteriorated since the date of this Firm Service Transportation Agreement, and in the reasonable opinion of Transporter have reached an unacceptable level;

then Transporter may provide notice to Shipper, stating its reasonable grounds and requesting a new or replacement Performance Assurance. Shipper may satisfy Transporter's request for a new or replacement Performance Assurance by it, its Affiliated Guarantor or other Performance Assurance Provider providing and maintaining a Letter of Credit in favour of Transporter in an amount equal to the total amount which Shipper will be obligated to pay Transporter under this Firm Service Transportation Agreement for the next twelve (12) month period and such amount shall be adjusted annually to reflect any change in the estimated amount payable hereunder for the next succeeding twelve (12) months. If Shipper, its Affiliated Guarantor or other Performance Assurance Provider is unable or unwilling to provide such Performance Assurance or another Performance Assurance which is satisfactory to Transporter within thirty (30) days of receipt of Transporter's notice, then Transporter shall have the right thereafter to terminate this Firm Service Transportation Agreement with immediate effect by providing a termination notice to Shipper.

5.9 Information

- (a) Subject to Section 5.9(c), Shipper shall make available to Transporter, upon Transporter's request, the audited consolidated financial statements of Shipper and its Affiliated Guarantor or other Performance Assurance Provider, if any, setting forth in comparative form the corresponding figures of the preceding fiscal year together with an auditors report thereon, prepared in accordance with Shipper's, its Affiliated Guarantor's or other Performance Assurance Provider's usual practice for such financial statements. Such financial statements shall be provided within one hundred and twenty (120) days after the end of each fiscal year of Shipper, its Affiliated Guarantor or other Performance Assurance Provider, as applicable. Transporter may, at its sole discretion, accept unaudited consolidated financial statements.
- (b) Subject to Section 5.9(c), Shipper shall make available to Transporter, upon Transporter's request, the unaudited consolidated financial statements of Shipper and its Affiliated Guarantor or other Performance Assurance Provider, if any, prepared on a basis consistent with the corresponding period of the preceding fiscal year. Such financial statements shall be provided within sixty (60) days

after the end of the third fiscal quarter of each fiscal year of Shipper, its Affiliated Guarantor or other Performance Assurance Provider, as applicable.

- (c) If a Shipper does not have audited financial statements or unaudited financial statements or if such statements are not generally publicly disclosed by such Shipper then such Shipper will be relieved of its obligations pursuant to Section 5.9(a) and Section 5.9(b); provided that such Shipper has an Affiliated Guarantor or other Performance Assurance Provider and such Affiliated Guarantor or other Performance Assurance Provider has provided the financial statements referred to in Section 5.9(a) within the one hundred and twenty (120) day period referred to in Section 5.9(a) and the financial statements referred to in Section 5.9(b) within the sixty (60) day period referred to in Section 5.9(b) in respect of such Affiliated Guarantor or other Performance Assurance Provider in lieu of such Shipper providing its financial statements.
- (d) Shipper shall make available and shall cause any Affiliated Guarantor or other Performance Assurance Provider to make available to Transporter any additional information regarding the business affairs, operations, assets and financial condition of Shipper or any Affiliated Guarantor or other Performance Assurance Provider as Transporter may reasonably request from time to time in order to assess the creditworthiness of Shipper or any Affiliated Guarantor or other Performance Assurance Provider. Shipper shall provide and shall cause any Affiliated Guarantor or other Performance Assurance Provider to provide the requested information within ten (10) Business Days of Transporter's request.
- (e) If, at any time during the ten (10) year period commencing on the Date of Commencement that the MVAPLP is seeking to finance an ownership interest in the Transportation System, and on or about the date that is the fifth (5th) anniversary of the initial Date of Commencement, and on or about the date that is the tenth (10th) anniversary of the initial Date of Commencement, the MVAPLP requires a Lending and Investment Report to be prepared, the MVAPLP will so advise Transporter. Upon being so notified, Transporter shall provide a notice to Shipper that a Lending and Investment Report is to be prepared. Within five (5) Business Days of the receipt of such notice from Transporter, Shipper will advise the MVAPLP as to which one (1) of the following three (3) types of information that Shipper elects to provide access to the Independent Resources Evaluator, for the sole purpose of preparing a Lending and Investment Report:
 - (i) all relevant, available non-public resource and supply data in Shipper's possession, which is reasonably required by the Independent Resources Evaluator;
 - (ii) interpretations of all relevant, available public and non-public resource and supply data that have been prepared by Shipper; provided that the Independent Resources Evaluator shall have the right to audit such interpretations and shall have access to such non-public resource or supply

data that it reasonably requires for the purpose of preparing a Lending and Investment Report; or

- (iii) interpretations of all relevant, available public and non-public resource and supply data that have been prepared for Shipper by an independent third party consulting reservoir engineering firm; provided that the Independent Resources Evaluator shall have the right to audit such interpretations and shall have access to such non-public resources or supply data that it reasonably requires for the purpose of preparing a Lending and Investment Report;

in order that the Independent Resources Evaluator may provide an assessment of the economically recoverable resources and the deliverability associated therewith, which relate to the resources and supply of Natural Gas from commercial discoveries and Significant Discovery Licences and any other resources and supply, that, in the expectation and judgment of Shipper, acting reasonable, is to be transported by Shipper on the Transportation System under this Firm Service Transportation Agreement. Shipper shall also, to the extent reasonably required by the Independent Resources Evaluator, either arrange to obtain from any Person which is then supplying the Natural Gas being transported by Shipper on the Transportation System (a "**Supplier**") and arrange to provide the Independent Resources Evaluator with access to, or arrange for Shipper's Suppliers to provide access to, any such relevant available data, or interpretations thereof, as the case may be, in accordance with Shipper's election as to the type of information that it will provide access to the Independent Resources Evaluator in respect of such resources and supply of Natural Gas that is not in Shipper's possession but that is in the possession of such Supplier. Within thirty (30) days of Shipper's receipt of a notice from Transporter that a Lending and Investment Report is to be prepared, Shipper shall provide access to the Independent Resources Evaluator in accordance with the election which it made to the MVAPLP. Nothing in this Section 5.9(e) shall require Shipper or any of Shipper's Suppliers to provide access to the Independent Resources Evaluator to:

- (i) any interpretations of such data which have been prepared by Shipper or any of Shipper's Suppliers unless Shipper has elected to do so;
- (ii) any such data, or interpretations thereof, which Shipper or any of Shipper's Suppliers is precluded from disclosing because of third party confidentiality restrictions; or
- (iii) any such data, or interpretations thereof, more frequently than once in any one (1) year period.

While Shipper will endeavour to provide resource and supply data, or interpretations thereof, that are accurate, such data or interpretations thereof, are provided with no representations or warranties as to their accuracy or completeness. Such resource and supply data, or interpretations thereof, will only

be required to be provided if the Independent Resources Evaluator has first entered into a confidentiality agreement with Shipper and such Shipper's Suppliers, on terms and conditions which are satisfactory to Shipper and such Shipper's Suppliers, acting reasonably, agreeing to: maintain all such data, or interpretations thereof, confidential; not disclose to any other Person including any APG Senior Lender or any APG Equity Investor any such data, or interpretations thereof which have been provided by Shipper to the Independent Resources Evaluator; and only use such data, or interpretations thereof, for the purpose of assessing the quantities of Natural Gas which would be available for transportation on the Transportation System in connection with the preparation of a Lending and Investment Report. The Independent Resources Evaluator will be entitled to provide a Lending and Investment Report to those APG Senior Lenders and APG Equity Investors which have also entered into a confidentiality agreement with Shipper, which has been executed by an officer of the APG Lender or the APG Equity Investor, as the case may be, and such Shipper's Suppliers, on terms and conditions which are satisfactory to Shipper and such Shipper's Suppliers, acting reasonably, agreeing to maintain all such information contained in such Lending and Investment Report confidential and to only use such report for the purpose of assessing the quantities of Natural Gas which would be available to Shipper for transportation on the Transportation System; provided that the Independent Resources Evaluator shall not provide a Lending and Investment Report to any APG Equity Investor which is an active participant in the oil and gas exploration or production sector or to any APG Equity Investor, other than a financial institution, which has an Affiliate which is an active participant in the oil and gas exploration or production sector, unless Shipper and such Shipper's Suppliers provide their prior consent, such consent to not be unreasonably withheld. Transporter shall consult with Shipper and all other shippers which have firm service transportation agreements with Transporter in an attempt to ascertain the names of those third party consulting reservoir engineering firms which would be acceptable to such shippers as an Independent Resources Evaluator. Transporter shall provide the names of such third party consulting reservoir engineering firms to the MVAPLP for subsequent referral by the MVAPLP to the APG Senior Lenders and the APG Equity Investors.

ARTICLE 6 TOLLS AND TARIFF

6.1 Toll Principles and Tariff Principles

The Parties agree that the tolls payable by Shipper for Service under the Firm Service Transportation Agreement, at all times prior to the end of a twenty (20) year period commencing on the first day of the month next following the month in which the Date of Commencement occurred, will be determined and calculated in accordance with the Toll Principles; provided that nothing herein shall prevent Shipper from advancing any position before the NEB respecting the issues as to whether or not all predevelopment costs incurred by any Person which was a Pipeline Owner in connection with the Mackenzie Valley Pipeline, or whether or not actual expenditures of a capital nature associated with the Mackenzie Valley Pipeline had, in each case, been

prudently incurred and should or should not be included in the Rate Base for the Mackenzie Valley Pipeline. Notwithstanding anything else to the contrary contained in this Precedent Agreement, Shipper shall not be precluded from raising concerns about the Toll Principles and the Tariff Principles before the National Energy Board and Shipper shall be entitled to make a complaint to or file an application with the NEB to the extent that Shipper believes that Transporter has not established tolls in a manner which complies with the Toll Principles. The Parties agree that such tolls will be set forth in the list of tolls prepared by Transporter and as filed with or approved by the NEB from time to time. The tolls payable by Shipper for transportation service under the Firm Service Transportation Agreement at all times after the end of such twenty (20) year period, will be set forth in the list of tolls prepared by Transporter and as filed with or approved by the NEB from time to time. The Parties agree that the General Terms and Conditions to be filed with or approved by the NEB from time to time will reflect and incorporate the Tariff Principles.

6.2 Tariff

The Tariff will be subject to the provisions of the NEB Act and any rules, regulations, decisions and orders of the NEB.

ARTICLE 7 AUTHORIZED OVERRUN SERVICE

7.1 Forecast of AOS Capacity

Transporter shall determine and advise Shipper and other Firm Shippers on a periodic basis as to the anticipated amount of capacity available for AOS. Actual capacity available for AOS will depend upon all shippers' nominations for Firm Service and the capability of the Transportation System to provide Service.

7.2 Allocation of AOS Capacity

Shipper and other Firm Shippers may nominate for AOS in accordance with the General Terms and Conditions. AOS will be allocated daily by Transporter to each Firm Shipper in a quantity equal to the lesser of:

- (a) a pro rata portion of available AOS capacity according to the ratio that the portion of each such Firm Shipper's Contract Demand Quantity that has not been released to another Person bears to the aggregate of all Firm Shippers' Contract Demand Quantities;
- (b) ten percent (10%) of the portion of such Firm Shipper's Contract Demand Quantity that has not been released to another Person; or
- (c) the AOS nominated by such Firm Shipper.

7.3 AOS to Track Firm Service

No shipper shall be entitled to AOS unless that shipper also holds the Firm Service capacity. If Shipper has released all or part of its Firm Service capacity to another shipper, then that shipper shall be the sole shipper which will be entitled to exercise the right to any AOS capacity associated with such released Firm Service capacity.

7.4 Commodity Charge for AOS

Shipper shall pay the Commodity Charge, if any, for all of Shipper's actual deliveries of Natural Gas under AOS Service from the Date of Commencement in accordance with the General Terms and Conditions.

ARTICLE 8 TERMINATION OF PRECEDENT AGREEMENT

8.1 Termination of Precedent Agreement

The Precedent Agreement is hereby terminated as of the date hereof.

ARTICLE 9 DEFAULT AND TERMINATION RIGHTS

9.1 Transporter Default

The occurrence and continuation of any of the following events, unless any such event occurs as a result of a breach by Shipper of its obligations under this Firm Service Transportation Agreement, shall constitute a "**Transporter Default**":

- (a) a material breach by Transporter of any of its obligations under this Firm Service Transportation Agreement; or
- (b) Transporter repudiating this Firm Service Transportation Agreement or evidencing its intention not to perform its obligations under, or to be bound by this Firm Service Transportation Agreement, except as permitted hereunder.

9.2 Shipper Default

The occurrence and continuation of any of the following events, unless any such event occurs as a result of a breach by Transporter of its obligations under this Firm Service Transportation Agreement, shall constitute a "**Shipper Default**":

- (a) a material breach by Shipper of any of its obligations under this Firm Service Transportation Agreement other than those referred to in Sections 4.7, 4.8, 5.7 or 5.8 and other than any breach by Shipper of any of its obligations set out in the Tariff for which a specific termination right has been provided in the Tariff; or

- (b) Shipper repudiating this Firm Service Transportation Agreement or evidencing its intention not to perform its obligations under, or to be bound by this Firm Service Transportation Agreement, except as permitted hereunder.

9.3 Termination for Default

Shipper may elect to terminate this Firm Service Transportation Agreement in the event of a Transporter Default pursuant to Section 9.1. Transporter may elect to terminate this Firm Service Transportation Agreement in the event of a Shipper Default pursuant to Section 9.2. The terminating Party must give the other Party one hundred and twenty (120) days prior notice of its intent to terminate this Firm Service Transportation Agreement pursuant to this Section 9.3. Unless the default is cured, within the required notice period, termination of this Firm Service Transportation Agreement will be effective upon expiry of the one hundred and twenty (120) day notice period.

9.4 Termination for Insolvency

A Party shall have the right to terminate this Firm Service Transportation Agreement by giving notice, if the other Party, or the Controlling Party, or the Affiliated Guarantor or other Performance Assurance Provider of that other Party:

- (a) files a voluntary application in or for liquidation, receivership or bankruptcy;
- (b) is finally and validly declared and adjudged to be liquidated, bankrupt or insolvent;
- (c) is subject to a resolution passed by its members for the purposes of placing it in voluntary administration;
- (d) is subject to an order by any court of competent jurisdiction for its winding up;
- (e) is the subject of an appointment of a receiver or receiver and manager or like officer of the whole or any material part of its assets;
- (f) has a secured party take possession of all or substantially all its assets or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all its assets; and such secured party maintains possession, or any such process is not dismissed, discharged, stayed or restrained, in each case within fifteen (15) Business Days thereafter;
- (g) is the subject of an appointment of an administrator, official manager or like officer in circumstances where such other Party, or the Controlling Party or the Affiliated Guarantor or the other Performance Assurance Provider of that other Party is or is likely to become insolvent; or
- (h) enters into a scheme of arrangement with its creditors or any of them;

provided that the foregoing shall not include any voluntary proceeding for the purpose of amalgamation, reconstruction or reorganization not taken at the request of or to meet the requirements of such other Party's, Controlling Party's, Affiliated Guarantor's or Performance Assurance Provider's creditors. Where the notice of termination relates to the other Party, or the Controlling Party or an Affiliated Guarantor or any other Performance Assurance Provider that is an Affiliate of that other Party, then the termination of this Firm Service Transportation Agreement will be effective upon delivery of such notice. Where the notice of termination relates to a Performance Assurance Provider that is not an Affiliate of that other Party, then the termination of this Firm Service Transportation Agreement will be effective upon the expiry of a ten (10) Business Day period from the date of delivery of such termination notice, unless within such period, Shipper has provided Performance Assurances to Transporter which are satisfactory to Transporter.

9.5 Cumulative Remedies

Upon the occurrence and continuation of a Transporter Default or a Shipper Default, then in addition to the right to terminate this Firm Service Transportation Agreement under Section 9.3, the non-defaulting Party shall, at its option, also have the right to specific performance of this Firm Service Transportation Agreement or to receive damages as would be available under law.

9.6 Accrued Rights Unaffected

No termination of this Firm Service Transportation Agreement, however effected, shall affect or extinguish any rights or obligations of the Parties which accrued prior to the date of termination or affect or extinguish any remedies available to any Party at law, equity or as provided for herein.

9.7 Pipeline Owners' Decision to Downsize

Transporter shall advise Shipper, by notice, of any decision made by the Pipeline Owners after the date hereof to downsize the mainline pipeline of the Mackenzie Valley Pipeline to a diameter of less than NPS thirty (30) within ten(10) days of such decision being made. If Transporter has notified Shipper of such decision to downsize, then Shipper may elect to terminate this Firm Service Transportation Agreement by providing notice to Transporter within ten (10) days of the receipt of such notice from Transporter.

ARTICLE 10 ASSIGNMENT

10.1 By Shipper

Shipper shall have the right to assign its rights and obligations, or parts thereof, under this Firm Service Transportation Agreement subject to:

- (a) (i) the assignee, or its Affiliated Guarantor, as applicable, having a credit rating for its Applicable Debt from a Rating Agency that meets the Minimum Ratings Requirement, provided that:

- (A) in assessing such Applicable Debt the long term debt, as determined at any date, means the indebtedness of the assignee or its Affiliated Guarantor, as applicable, which would be classified as such on its balance sheet in accordance with generally accepted accounting principles in Canada or, at the option of the assignee if the assignee or its Affiliated Guarantor, as applicable, trades on a United States stock exchange, in accordance with generally accepted accounting principles in the United States, and which in all events matures by its terms at a date more than one year after the date of determination; and
- (B) if the Applicable Debt of the assignee, or its Affiliated Guarantor, as applicable, is rated by more than two Rating Agencies, at least two of such ratings, established by such Rating Agencies, must meet the Minimum Ratings Requirement for each such Rating Agency;

provided that if the assignee or its Affiliated Guarantor, as applicable, does not have any Applicable Debt or its Applicable Debt has not been rated by any Rating Agency, then the assignee must provide evidence which confirms that the assignee or its Affiliated Guarantor, as applicable, has obtained an Issuer Rating from at least one of the Rating Agencies meeting the Minimum Ratings Requirements of such Ratings Agency; and

- (ii) Transporter providing its prior written approval, which shall not be unreasonably withheld; provided that Transporter shall not be allowed to withhold such approval on the basis of the financial condition of the assignee or its Affiliated Guarantor, as applicable; or
- (b) (i) the assignee or its Affiliated Guarantor or other Performance Assurance Provider having provided Performance Assurances to Transporter which are satisfactory to Transporter; and
- (ii) Transporter providing its prior written approval, which shall not be unreasonably withheld;

and, in either case, if the effective date of the assignment is prior to the Date of Commencement, the assignee or an Affiliate of the assignee owning Natural Gas resources located upstream of the Mackenzie Valley Pipeline from which Natural Gas will be produced and transported on the Mackenzie Valley Pipeline under this Firm Service Transportation Agreement.

10.2 By Transporter

Transporter, without obtaining any approval from Shipper, may assign all of its rights and obligations under this Firm Service Transportation Agreement to:

- (a) any Affiliate of Transporter;

- (b) to any Person designated by the Pipeline Owners from time to time to be the operator of the Transportation System; or
- (c) to any Person which the Pipeline Owners have advised Transporter, will be developing or operating the Transportation System in the place of the Pipeline Owners;

Transporter may also assign all of its rights and obligations or a portion thereof under this Firm Service Transportation Agreement to any other Person with the prior written approval of Shipper, which shall not be unreasonably withheld.

10.3 Succession

Any Person which shall succeed by purchase of all or substantially all of the assets and assumption of all or substantially all of the liabilities of, or merger or consolidation with either Transporter or Shipper, as the case may be and which signs and delivers a counterpart of this Firm Service Transportation Agreement to the other Party, shall be entitled to the rights and shall be subject to the obligations of its predecessor under this Firm Service Transportation Agreement.

10.4 Pledging

The provisions of this Article 10 shall not in any way prevent Transporter or the Pipeline Owners from pledging or mortgaging Transporter's rights under this Firm Service Transportation Agreement, as security for their indebtedness. Shipper shall execute all consents to assignment and acknowledgements as reasonably requested by Transporter or the Lenders of any security interests granted by Transporter or any Pipeline Owner in relation to the Mackenzie Valley Pipeline or this Firm Service Transportation Agreement.

ARTICLE 11 AUTHORITIES

11.1 Authorities

Performance of this Firm Service Transportation Agreement shall be subject to all valid laws, orders, decisions, rules and regulations of duly constituted governmental authorities having jurisdiction or control of any matter related hereto, including the Authorities. Should either Party, by force of any such law, order, decision, rule or regulation, at any time during the term of this Firm Service Transportation Agreement be ordered or required to do any act inconsistent with the provisions hereof, then for the period during which the requirements of such law, order, decision, rule or regulation are applicable, this Firm Service Transportation Agreement shall, to the extent reasonably required, be deemed modified to conform with the requirement of such law, order, decision, rule or regulation; provided that nothing in this Section 11.1 shall alter, modify or otherwise affect the respective rights of the Parties to terminate this Firm Service Transportation Agreement under the terms and conditions hereof.

ARTICLE 12 CHOICE OF LAW AND ATTORNMENT

12.1 Choice of Law and Attornment

This Firm Service Transportation Agreement and the Tariff, shall be construed and applied in accordance with and be subject in all respects to the laws of the Province of Alberta, and the laws of Canada having application therein, without recourse to any laws governing conflict of laws. Neither Party shall institute any action, suit or other proceeding with respect to any matter arising under or out of this Firm Service Transportation Agreement other than in the Alberta Court of Queen's Bench in the Judicial District of Calgary; provided that a Party may institute an action in another jurisdiction in order to enforce any judgement or award of the Alberta Court of Queen's Bench. In that regard, each Party hereby irrevocably attorns to the jurisdiction of such Court in the event of any such action, suit or other proceeding by the other Party.

ARTICLE 13 MISCELLANEOUS

13.1 Other Documents Incorporated

The General Terms and Conditions are all by reference made a part of this Firm Service Transportation Agreement and Service hereunder shall be subject to the provisions thereof. Transporter shall notify Shipper at any time that Transporter files with the NEB proposed revisions to the Tariff and shall provide Shipper with a copy of such revisions.

13.2 Headings for Reference

The headings used throughout this Firm Service Transportation Agreement and the General Terms and Conditions are inserted for convenience of reference only and are not to be considered or taken into account in construing the terms of provisions thereof nor to be deemed in any way to qualify, modify or explain the effect of any such provisions or terms.

13.3 Supercedes Other Agreements

This Firm Service Transportation Agreement reflects the whole and entire agreement between Transporter and Shipper with respect to the Schedule of Service and supercedes all prior agreements and understandings between Transporter and Shipper with respect to such subject matter.

13.4 Amendment

This Firm Service Transportation Agreement may only be modified or amended by written agreement executed by each Party.

13.5 Notices

Except as otherwise specifically provided, all notices authorized or required between the Parties by any of the provisions of this Firm Service Transportation Agreement, shall be in writing, in

the English language and delivered in person or by courier service or by any electronic or other means of transmitting written communications which provides written confirmation at the originating Party's end of a complete transmission, and addressed to the other Party as set out below. Oral communication does not constitute notice for purposes of this Firm Service Transportation Agreement, and telephone numbers for the Parties are listed below as a matter of convenience only.

The originating notice given under any provision of this Firm Service Transportation Agreement shall be deemed delivered when Received by the Party to whom such notice is directed, and the time for such Party to deliver any notice in response to such originating notice shall run from the date the originating notice is Received. The second or any responsive notice shall be deemed delivered when Received. "**Received**" for purposes of this Section 13.5 shall mean actual delivery, on a Business Day prior to 3:00 p.m. at the place of receipt, of the notice to the address of the Party to be notified as specified below. If a notice is not delivered prior to 3:00 p.m. at the place of receipt, such notice shall be deemed to have been Received by such Party at the commencement of the next following Business Day.

Each Party shall have the right to change its address at any time and/or designate that copies of all notices be directed to another Person at another address, by giving written notice thereof to the other Party. Any such change of address shall become effective ten (10) Business Days after such notice is Received by the Party so notified.

Transporter:

Imperial Oil Resources Ventures Limited
237 Fourth Avenue S.W.
Calgary, Alberta
T2P 0H6
Attention: •
Telecopy: •
Telephone: •

Shipper:

•
•
•
•
Attention: •
Telecopy: •
Telephone: •

13.6 Severability

The invalidity or unenforceability, for any reason, of any part of this Firm Service Transportation Agreement shall not prejudice or affect the validity or enforceability of the remainder.

13.7 Waiver

Either Party may from time to time waive, at its sole discretion, the strict performance, in whole or in part, of any condition or term of this Firm Service Transportation Agreement by the other Party if such waiver is confirmed in writing. The failure of either Party to insist upon the strict performance of any of the provisions of this Firm Service Transportation Agreement or to take advantage of any of the rights hereunder shall not be construed as a waiver of any such provision or relinquishment of any such rights, but the same will continue in full force and effect. A waiver by either Party of any breach or non-performance of any of the obligations to be performed by the other Party shall not take effect or be binding upon the first Party unless the waiver is expressed in writing by that Party. Any waiver so given shall extend only to the particular breach or non-performance so waived and shall not limit or affect any rights with respect to any other future breach or non-performance.

13.8 GST

Notwithstanding any other provision of this Firm Service Transportation Agreement, in the event that any amount becomes payable to a Party as a result of a breach, modification or termination of this Firm Service Transportation Agreement, and Section 182 of the Excise Tax Act applies to that amount, the amount payable shall be increased by an amount equal to the product of the applicable GST percentage rate multiplied by the amount otherwise payable and the payor shall pay the increased amount.

IN WITNESS WHEREOF, the Parties have duly executed this Firm Service Transportation Agreement by their duly authorized representatives with effect as of the day first above written.

**IMPERIAL OIL RESOURCES
VENTURES LIMITED**

Per: _____

Per: _____

[SHIPPER]

Per: _____

Per: _____

SCHEDULE A

This Schedule A forms part of the Firm Service Transportation Agreement dated the • day of •, 20•• and shall be deemed to be attached thereto.

TOLL PRINCIPLES

PLEASE REFER TO PRECEDENT AGREEMENT SCHEDULE B

SCHEDULE B

This Schedule B forms part of the Firm Service Transportation Agreement dated the ____ day of _____, 20____ and shall be deemed to be attached thereto.

TARIFF PRINCIPLES

PLEASE REFER TO PRECEDENT AGREEMENT SCHEDULE C

SCHEDULE C

This Schedule C forms part of the Firm Service Transportation Agreement dated the • day of •, 20•• and shall be deemed to be attached thereto.

RATING AGENCIES AND MINIMUM RATINGS REQUIREMENTS

PLEASE REFER TO PRECEDENT AGREEMENT SCHEDULE D

SCHEDULE D

SCHEDULE OF SERVICE

This Schedule D forms part of the Firm Service Transportation Agreement dated the • day of •, 200• and shall be deemed to be attached thereto.

Shipper: _____

Primary Term: _____ Years

Receipt Point: _____

Delivery Point: _____

Contract Demand Quantity: _____ GJ per day

Initials

Transporter _____

Shipper _____

Revision No. _____

SCHEDULE B

This Schedule B forms part of the Precedent Agreement for Firm Transportation dated the _____ day of _____, 20____ and shall be deemed to be attached thereto.

1. TOLL PRINCIPLES GENERAL

- 1.1 All tolls will be established based on a forward toll year cost of service basis.
- 1.2 The First Toll Year will commence on the date that service is first provided on the Transportation System to any shipper and will end on the immediately following December 31, if such period of time is greater than six months, and if such period is less than six months, the First Toll Year will end on the second following December 31.
- 1.3 All toll years, subsequent to the First Toll Year, will be the calendar year commencing immediately after the end of the previous toll year.
- 1.4 Appropriate adjustments will be made in the calculation of all tolls for the First Toll Year to reflect the fact that its duration will not be 12 months.
- 1.5 Tolls for each toll year will be established based on the bona fide estimates of Transporter with all differences between Transporter's estimates and the actual amounts for such toll year to be recorded in deferral accounts. Carrying charges on the average monthly deferral account balances will be calculated at the current Rate of Return.
- 1.6 The net balance of the deferral accounts for any toll year will be applied to the Annual Revenue Requirement for the immediately subsequent toll year.
- 1.7 Tolls will be established for Fifteen Year FSTA's ("FS-15"), Twenty Year FSTA's ("FS-20"), Authorized Overrun Service ("AOS") and Interruptible Transportation ("IT").
- 1.8 Tolls will be established for service ("Short-Haul Transportation") from any Receipt Point located at or downstream of Little Chicago, Northwest Territories, located at approximately KP 203, to a Delivery Point located at or upstream of the point of interconnection between the Transportation System and the facilities of NOVA located in northwest Alberta (the "NOVA Interconnect"). Tolls will be established to apply to Fifteen Year FSTA's pursuant to which Short-Haul Transportation is being provided ("FSSH-15"), Twenty Year FSTA's pursuant to which Short-Haul Transportation is being provided ("FSSH-20") and interruptible service pursuant to which Short-Haul Transportation is being provided ("ITSH"). The FSSH-20 Demand Charge will be 72.4% of the FS-20 Demand Charge. The FSSH-15 Demand Charge will be 72.4% of the FS-15 Demand Charge.
- 1.9 It is currently contemplated that all of Transporter's costs of providing service, both capital and operating, will be recovered through a fixed Demand Charge, expressed in \$/GJ/month, although Transporter reserves the right to also charge a Commodity Charge should there be a significant cost or tax which is primarily dependent on throughput quantities.

- 1.10 The FS-15 Demand Charge will be the sum of the FS-20 Demand Charge and the FS-15 Toll Premium. The FSSH-15 Demand Charge will be the sum of the FSSH-20 Demand Charge and the FSSH-15 Toll Premium.
- 1.11 The FS-15 Toll Premium will be \$4.5625, expressed in \$/GJ/month (\$0.15 expressed in \$/GJ/day), for each GJ per day of the Contract Demand Quantity. The FSSH-15 Toll Premium will be \$3.3033, expressed in \$/GJ/month (\$0.1086 expressed in \$/GJ/day), for each GJ per day of the Contract Demand Quantity.
- 1.12 The FS-15 Demand Charge, inclusive of the FS-15 Toll Premium, will apply to all Natural Gas transported under a Fifteen Year FSTA both during the Primary Term of such Fifteen Year FSTA and during any renewal period of such Fifteen Year FSTA which is prior to the end of the Initial Tolls Period. The FSSH-15 Demand Charge, inclusive of the FSSH-15 Toll Premium, will apply to all Natural Gas transported under a Fifteen Year FSTA pursuant to which Short-Haul Transportation is being provided both during the Primary Term of such Fifteen Year FSTA and during any renewal period of such Fifteen Year FSTA which is prior to the end of the Initial Tolls Period.
- 1.13 AOS will not incur any Demand Charge.
- 1.14 The IT toll, expressed in \$/GJ, will be equal to 110% of the FS-15 Demand Charge converted to an amount, expressed in \$/GJ, based on a 100% load factor. The ITSH toll, expressed in \$/GJ, will be equal to 110% of the FSSH-15 Demand Charge converted to an amount, expressed in \$/GJ, based on a 100% load factor.
- 1.15 All revenues from IT and ITSH and any Low Heating Value Surcharges will be credited to the Annual Revenue Requirement.
- 1.16 The Demand Charge Determinants which will be utilized to establish the tolls for any toll year will be determined:
 - (a) utilizing Transporter's estimate of the Contract Demand Quantities which will be in effect during such toll year under those firm service transportation agreements where the shipper is not in default in respect of any payment obligation thereunder;
 - (b) with appropriate adjustments to reflect the reduced tolls associated with Fifteen Year FSTA's pursuant to which Short-Haul Transportation is being provided and Twenty Year FSTA's pursuant to which Short-Haul Transportation is being provided; and
 - (c) with appropriate adjustments to reflect the fact that any particular firm service transportation agreement may not be in effect throughout such toll year or that Transporter estimates that any particular shipper may be in default in respect of any payment obligation under a firm service transportation agreement for only a portion of the toll year.

1.17 All tolls will be determined in accordance with these Toll Principles until the end of the 20 year period commencing on the first day of the month next following the month in which the earliest date of commencement under any firm service transportation agreement occurred ("Initial Tolls Period").

2. RATE BASE

2.1 The Rate Base for the Transportation System will include, but not be limited to:

- (a) all expenditures of a capital nature associated with the Mackenzie Valley Pipeline which have been approved by the NEB for inclusion by Transporter in the Rate Base for the Mackenzie Valley Pipeline;
- (b) overhead amounts related to capital expenditures;
- (c) all predevelopment costs incurred by any Person which was a Pipeline Owner in connection with the Mackenzie Valley Pipeline, which have been approved by the NEB for inclusion by Transporter in the initial Rate Base for the Mackenzie Valley Pipeline, less any Termination Fees paid by shippers in accordance with Section 6.2 or Section 6.3 of any precedent agreement;
- (d) all payments made by Transporter to NOVA as a contribution to NOVA for constructing any NOVA facilities to be located adjacent to the NOVA Interconnect, which facilities may be required by NOVA in order for it to receive Natural Gas off of the Transportation System;
- (e) working capital including cash, net GST, materials and supplies, transmission linepack and prepayments and deposits;
- (f) an allowance for funds utilized during construction ("AFUDC") calculated until the start of the Initial Tolls Period, at the Rate of Return which would have applied during the calendar years that such funds were expended;
- (g) that portion of the total actual financing expenses associated with each of the debt financing to be provided by the APG Senior Lenders and the equity financing to be provided by the APG Equity Investors which has not yet been amortized as of the end of the previous toll year;
- (h) the actual regulatory fees associated with the Transportation System including any levy associated with the National Energy Board issuing a Certificate; and
- (i) the actual costs of providing any bonds, letters of credit or other guarantees to any government or regulatory agency in connection with the Transportation System.

2.2 The Rate Base will be reduced by the amount of accumulated depreciation and amortization.

2.3 The Rate Base to be utilized for establishing the tolls for any particular toll year will be the average of the estimated Rate Base for each month of such toll year.

4. DEPRECIATION EXPENSE

- 4.1 A "Depreciation Expense" for each toll year will be based on the Average Gas Plant in Service associated with the Transportation System during such toll year and any amounts to be amortized during such toll year.
- 4.2 The "Average Gas Plant in Service" to be utilized for establishing the tolls for any particular toll year will be the average of the estimated gas plant in service for each month of such toll year.
- 4.3 Transporter may also include an allowance for negative net salvage or reclamation costs in the Depreciation Expense if Transporter believes that these costs could be significant and the method for determining the amount of such allowance is specifically approved by the NEB.
- 4.4 A composite depreciation rate, expressed as a percentage, will be used for the entire gas plant in service.
- 4.5 The specific annual depreciation rate, for all Mackenzie Valley Pipeline facilities which are placed in service as of the commencement of the Initial Tolls Period (the "Original Facilities"), for the First Toll Year through the fifteenth toll year, will be calculated in accordance with the following formula:

$$\begin{array}{l} \text{Annual Depreciation Rate} \\ \text{Toll Year 1 – 15} \\ \text{on Original Facilities} \end{array} = \left(\frac{A}{A + B} \times 4\% \right) + \left(\frac{B}{A + B} \times 5\% \right)$$

- where:
- A = the sum of the Contract Demand Quantities under the Twenty Year FSTA's; and
 - B = the sum of the Contract Demand Quantities under the Fifteen Year FSTA's.

- 4.6 The specific annual depreciation rate, for the Original Facilities, for the sixteenth toll year through to the end of the Initial Tolls Period, will be calculated in accordance with the following formula:

$$\begin{array}{l} \text{Annual Depreciation Rate} \\ \text{Toll Year 16 – 20} \\ \text{on Original Facilities} \end{array} = \frac{80\% - (A \times B)}{C}$$

- where:
- A = the specific annual depreciation rate for the First Toll Year through the fifteenth toll year, expressed as a percentage;
 - B = the number of calendar years, including partial calendar years, in the period from the commencement of the First Toll Year to the end of the fifteenth toll year; and

C = the number of calendar years, including partial calendar years, in the period from the commencement of the fifteenth toll year to the end of the Initial Tolls Period.

- 4.7 The specific annual depreciation rate, for each capital asset which is placed in service at any time subsequent to the start of the Initial Tolls Period, for each toll year, will be determined based on the shorter of such asset's economic life or the weighted average of the remaining number of years in the primary terms of all firm service transportation agreements, where the shipper is not in default in respect of any payment obligation thereunder, with such weighting to be done on the basis of the Contract Demand Quantities under such firm service transportation agreements.

5. INCOME TAX EXPENSE

- 5.1 An "Income Tax Expense" will be determined as if Transporter was a stand alone pipeline transmission company, only carrying on business in the Northwest Territories and paying taxes on a flow through basis.
- 5.2 All large corporation taxes or other capital taxes which would apply if Transporter was a stand alone pipeline transmission company will also be included in the determination of the Income Tax Expense.

6. OTHER TAXES

- 6.1 "Other Taxes" will include all property, municipal, business occupancy and any other taxes, royalties or charges relating to the Transportation System which will be recorded in the toll year in which they accrue.

7. OPERATING, MAINTENANCE AND ADMINISTRATION COSTS

- 7.1 "Operating, Maintenance and Administration Costs" will include all other actual costs and expenses associated with the Transportation System for a toll year which are not capital in nature including:
- (a) National Energy Board cost recovery charges;
 - (b) regulatory costs;
 - (c) operating expenses, maintenance expenses, administrative and general expenses and other overhead expenses; and
 - (d) the portion of the actual financing expenses associated with the debt financing to be provided by the APG Senior Lenders and the equity financing to be provided by the APG Equity Investors, which are to be amortized during such toll year.

8. NWT SMALL MARKET DELIVERY REBATE EXPENSE

- 8.1 Transporter will provide a rebate to each firm shipper, which is transporting Natural Gas under a FS-20, a FS-15, a FSSH-20 or a FSSH-15, which makes deliveries of Natural Gas to any Delivery Point located in the Northwest Territories for use by a NWT Small Market Consumer which rebate will be applied as a credit to the amount otherwise due by such firm shipper to Transporter for such firm service.
- 8.2 A "NWT Small Market Consumer" is a NWT Core Market Consumer or a NWT Small Industrial Consumer. A "NWT Core Market Consumer" is: (i) a person who uses or consumes Natural Gas in the Northwest Territories other than a person who uses or consumes Natural Gas primarily as a raw material or as a fuel, whether for space heating, water heating, electrical generation or otherwise, in an industrial or manufacturing operation; or (ii) a person who uses or consumes Natural Gas in the Northwest Territories as fuel in order to generate electricity but only to the extent that such electricity is supplied by such person to residential, commercial, or institutional users of such electricity which are located in the Northwest Territories. A "NWT Small Industrial Consumer" is: (i) a person who uses or consumes Natural Gas primarily as a raw material or as a fuel, whether for space heating, water heating, electrical generation or otherwise, in an industrial or manufacturing operation located in the Northwest Territories but such person is only a "NWT Small Industrial Consumer" with respect to such person's industrial or manufacturing operation locations where, in the calendar year, the total Natural Gas consumption by such person in such operation at such location is less than 100,000 GJ; or (ii) a person who uses or consumes Natural Gas in the Northwest Territories as fuel in order to generate electricity but only to the extent that such Natural Gas is used to generate electricity that is supplied by such person to users of such electricity in an industrial or manufacturing operation located in the Northwest Territories where, in the calendar year, the total amount of electricity used by such user in such operation at such location is less than the amount of electricity that could be generated for such location from 100,000 GJ of Natural Gas.
- 8.3 The amount of the rebate for any delivery month to be provided by Transporter to each such firm shipper which is transporting Natural Gas under a FS-20 or a FS-15 will be an amount equal to the product of 50% of the FS-20 Demand Charge for such delivery month, converted to an amount, expressed in \$/GJ, based on a 100% load factor, and the quantity of Natural Gas, expressed in GJ, which was delivered by such firm shipper during such delivery month at a Delivery Point located in the Northwest Territories for use by any NWT Small Market Consumer. The amount of the rebate for any delivery month to be provided by Transporter to each such firm shipper which is transporting Natural Gas under a FSSH-20 or a FSSH-15 will be an amount equal to the product of 50% of the FSSH-20 Demand Charge for such delivery month, converted to an amount, expressed in \$/GJ, based on a 100% load factor, and the quantity of Natural Gas, expressed in GJ, which was delivered by such firm shipper during such delivery month at a Delivery Point located in the Northwest Territories for use by any NWT Small Market Consumer.

- 8.4 Any rebate provided to a firm shipper during a calendar year in respect of a NWT Small Industrial Customer will be required to be refunded by such firm shipper to Transporter if at the end of such calendar year the person in respect of which any rebate was provided no longer qualifies as a NWT Small Industrial Consumer as a result of either of the 100,000 GJ maximum amounts being exceeded in such calendar year.
- 8.5 The anticipated amount of rebates to be provided pursuant to this Toll Principle 8 for a toll year ("NWT Small Market Delivery Rebate Expense") will be included in the Annual Revenue Requirement for such toll year.

9. ANNUAL REVENUE REQUIREMENT

- 9.1 The "Annual Revenue Requirement" for each toll year will consist of the sum of:

- (a) Return on Rate Base;
- (b) Depreciation Expense;
- (c) Income Tax Expense;
- (d) Other Taxes;
- (e) Operating, Maintenance and Administration Costs; and
- (f) NWT Small Market Delivery Rebate Expense;

relating to such toll year less the estimated revenues which will be received by Transporter during such toll year in relation to IT, ITSH and any Low Heating Value Surcharges or other surcharge and adjusted for the net balance in the deferral accounts relating to the immediately preceding toll year.

- 9.2 At least 30 days prior to the commencement of each toll year Transporter will provide to each shipper the Annual Revenue Requirement for such toll year and the tolls which will be applicable for such toll year. Transporter will respond to any questions which a shipper may have in respect of the calculation of such tolls and as to their compliance with the Toll Principles as may be modified by the NEB from time to time.

10. FS-20 DEMAND CHARGE CALCULATION

- 10.1 The FS-20 Demand Charge for a toll year will be determined by subtracting the amount expected to be received by Transporter during such toll year in connection with the FS-15 Toll Premium and the FSSH-15 Toll Premium from the Annual Revenue Requirement for such toll year and dividing such amount by the total number of Demand Charge Determinants for such toll year determined in accordance with the Toll Principle 1.16.

11. LOW HEATING VALUE SURCHARGE

11.1 If Transporter has accepted Natural Gas from any shipper at any Receipt Point despite the failure of such Natural Gas to meet the minimum gross heating value quality specification set out in Tariff Principle 7.3(i), and if the weighted average gross heating value of all Natural Gas delivered by such shipper at such Receipt Point during a month is also less than the minimum gross heating value quality specification set out in Tariff Principle 7.3(i) ("Low Heating Value Gas") then, in respect of each GJ of Natural Gas delivered by such shipper at such Receipt Point during such month, such shipper shall pay Transporter an additional Low Heating Value Surcharge determined in accordance with the following formula:

$$\begin{array}{l} \text{Low Heating Value} \\ \text{Surcharge} \\ (\$/\text{GJ}) \end{array} = A \times \left[\frac{B - C}{C} \right]$$

where:

A	=	the Demand Charge, converted to an amount, expressed in \$/GJ, based on a 100% load factor, for the applicable firm service transportation agreement or the IT toll or ITSH toll, expressed in \$/GJ, for the applicable interruptible service transportation agreement, in all cases under which such shipper transported such Low Heating Value Gas;
B	=	the minimum gross heating value quality specification set out in Tariff Principle 7.3(i), expressed in megajoules per cubic metre; and
C	=	the weighted average gross heating value of such Low Heating Value Gas delivered by such shipper during such month, expressed in megajoules per cubic metre, to a maximum amount equal to "B" above

SCHEDULE C

TARIFF PRINCIPLES

This Schedule C forms part of the Precedent Agreement for Firm Transportation dated the _____ day of _____, 20__ and shall be deemed to be attached thereto.

1. TYPES OF SERVICE

1.1 Firm Service Transportation Agreement:

- (a) firm service; and
- (b) authorized overrun service.

1.2 Interruptible Service Transportation Agreement:

- interruptible service.

2. RECEIPT AND DELIVERY POINT PRESSURES

2.1 Shipper will make Natural Gas available at a Receipt Point at a pressure which is sufficient to enable Natural Gas to enter the Transportation System; provided that such pressure shall not exceed the maximum receipt pressure nor be less than the minimum receipt pressure established from time to time for such Receipt Point unless otherwise agreed to by Transporter.

2.2 Transporter will make Natural Gas available at a Delivery Point at a pressure which is sufficient to enable Natural Gas to enter into the downstream pipeline facilities at such Delivery Point; provided that such pressure shall not exceed the maximum delivery pressure nor be less than the minimum delivery pressure established from time to time for such Delivery Point unless otherwise agreed to by Transporter.

2.3 The maximum receipt pressure and the minimum receipt pressure for each Receipt Point and the maximum delivery pressure and the minimum delivery pressure for each Delivery Point, from time to time will be set out in the Tariff.

3. TAXES AND ROYALTIES

3.1 Shipper will be responsible for any taxes, royalties, fees or charges levied or assessed upstream of a Receipt Point or downstream of a Delivery Point in respect of Shipper exploring for, recovering, producing, processing, transporting, storing, supplying or selling Natural Gas.

3.2 Shipper will be responsible for any taxes, fees or charges levied or assessed against Shipper, or those for which the incidence is intended to be borne by Shipper, in respect of the transportation of Natural Gas on the Transportation System.

4. SHIPPER'S TITLE WARRANTY

- 4.1 Shipper warrants to Transporter that it owns or controls or has the right to deliver or have delivered for its own account, the Natural Gas that is to be received by Transporter from Shipper.
- 4.2 Title or other ownership rights relating to the Natural Gas delivered by Shipper and received by Transporter shall remain with Shipper.
- 4.3 Shipper shall indemnify Transporter and save it harmless from all claims, actions, or damages arising from any adverse claims by any third party relating to the Natural Gas delivered by Shipper and Tariff Principle 21 shall not apply to such indemnity by Shipper.

5. POSSESSION OF GAS AND RESPONSIBILITY

- 5.1 Transporter shall have exclusive possession and control of all Natural Gas from the time it is received by Transporter from Shipper at a Receipt Point until the Natural Gas is delivered by Transporter to Shipper at a Delivery Point.
- 5.2 Shipper will have no responsibility with respect to the Natural Gas while such Natural Gas is in Transporter's possession other than Shipper's obligation to provide System Use Gas and Shipper's potential liability arising from Shipper delivering Natural Gas that fails to meet any Quality Specification.

6. SYSTEM USE GAS

- 6.1 Shipper shall, at no cost to Transporter, provide its proportionate share of System Use Gas, on a daily basis, in the amount requested by Transporter from time to time.
- 6.2 Shipper's proportionate share of System Use Gas will be based on the deliveries of Natural Gas by Shipper at all Receipt Points and the total deliveries of Natural Gas by all shippers at all Receipt Points.
- 6.3 "System Use Gas" is comprised of the quantities of Natural Gas which are necessary for the normal day to day operation and maintenance of the Transportation System including:
 - (a) Natural Gas used as fuel for compressors, heaters or other equipment; and
 - (b) Natural Gas otherwise lost or unaccounted for in connection with the operation and maintenance of the Transportation System including measurement variance or Natural Gas lost due to leakage, venting or rupture

and Natural Gas which is provided by Transporter to NOVA, on behalf of all shippers, at the NOVA Interconnect for use in heaters and other NOVA facilities to be located adjacent to the NOVA Interconnect, which facilities may be required by NOVA in order for it to receive Natural Gas off of the Transportation System.

- 6.4 Transporter shall transport System Use Gas to its point of consumption (e.g., a compressor station downstream of a Receipt Point) and the expected quantities of System Use Gas to be supplied by a shipper shall not be included in such shipper's Contract Demand Quantity.
- 6.5 System Use Gas will be specified as a fixed percentage of throughput and balanced with actual quantities on a periodic basis.

7. QUALITY

- 7.1 Shipper will deliver Natural Gas which meets each of the Quality Specifications at a Receipt Point unless otherwise agreed to by Transporter.
- 7.2 Transporter may refuse to accept any Natural Gas which fails to meet any of the Quality Specifications. Shipper will be liable for and shall indemnify Transporter for any damage caused by the delivery of Natural Gas which fails to meet any of the Quality Specifications.
- 7.3 The Quality Specifications which are applicable to the entire stream of Natural Gas being delivered at each Receipt Point are expected to be that the Natural Gas:
- (a) shall be free, at the pipeline operating pressure and temperature at the Receipt Point, from sand, dust, gums, crude oil, contaminants, impurities, or other objectionable substances which will render the Natural Gas unmerchantable, cause injury, cause damage or interfere with the operation of the Transportation System;
 - (b) shall have a maximum temperature at which two phases can exist at any pressure (a "Cricondentherm") of minus ten degrees Celsius; provided that this Cricondentherm specification shall be revised to reflect NOVA's specification for receiving high pressure gas at the NOVA Interconnect;
 - (c) shall not contain more than three milligrams of hydrogen sulphide per one cubic metre;
 - (d) shall not contain more than 115 milligrams of total sulphur per one cubic metre;
 - (e) shall not, unless Tariff Principle 7.9 is applicable to the particular shipper or shippers delivering such Natural Gas, contain more than the percentage of carbon dioxide by volume ("CO₂ Concentration") from time to time established by NOVA as the maximum CO₂ Concentration for Natural Gas which may be received onto the NOVA transmission system at the NOVA Interconnect without a NOVA shipper being required to obtain service from NOVA at such point under NOVA's Rate Schedule CO₂, which NOVA percentage is defined herein as the "NOVA CO₂ Limit";
 - (f) shall not contain more than six milligrams of water vapour per one cubic metre;

- (g) shall not be less than the minimum inlet temperature nor exceed the maximum inlet temperature for such Receipt Point, each as specified by Transporter from time to time;
- (h) shall be as free of oxygen as practicable and shall not in any event contain more than four-tenths of one percent by volume of oxygen;
- (i) shall have a gross heating value of not less than 36 megajoules per cubic metre; and
- (j) shall not contain any component or mix of components that may cause the presence of any liquid anywhere in the Transportation System under pipeline operating conditions.

- 7.4 Transporter may, from time to time, at its sole discretion subject to Tariff Principle 7.9, accept Natural Gas from a shipper at any Receipt Point which fails to meet one or more of the Quality Specifications set out in Tariff Principle 7.3 ("Off-Spec Gas"). Transporter may, at its sole option, curtail the receipt of any Off-Spec Gas from any shipper at any time without prior notice to such shipper or the operator of the upstream connecting facility or pipeline ("Common Stream Operator"); provided that Transporter shall provide notice of any curtailment to each affected shipper or Common Stream Operator as soon as reasonably practicable following the occurrence of such event. Any such curtailment shall not relieve any shipper from any obligation to pay any rate, toll, charge, surcharge or other amount payable to Transporter.
- 7.5 Transporter will commingle Shipper's Natural Gas with other Natural Gas in the Transportation System.
- 7.6 The quality of Natural Gas at any Delivery Point will be the quality that results from Natural Gas having been transported and commingled in the Transportation System. Each shipper at a Delivery Point will be allocated Natural Gas with a composition of the common stream at such Delivery Point subject to a shipper specific allocation of CO₂ in accordance with Tariff Principle 7.8 for all deliveries at the NOVA Interconnect.
- 7.7 Shipper shall be deemed conclusively for all purposes of the Tariff to have appointed the Common Stream Operator at each Receipt Point at which Shipper has the right to receive service, as its agent for the purpose of carrying out and performing the duties, functions and responsibilities of a Common Stream Operator as set out in this Tariff Principle 7.7. Such appointment as Shipper's agent shall be irrevocable and shall not be affected in any way whatsoever by any change in the identity of the Common Stream Operator at any Receipt Point or the number or identity of the shippers at any Receipt Point. Shipper shall cause the Common Stream Operator at each Receipt Point at which Shipper has the right to receive service to provide Transporter with the CO₂ Concentration of the entire stream of Natural Gas being delivered at such Receipt Point and an allocation of the total volume of CO₂ in the Natural Gas delivered during each day for the account of Shipper at such Receipt Point. Transporter shall be entitled to rely and act upon all notifications, communications or information given, made or provided by any Common Stream

Operator on behalf of and in respect of Shipper in connection with the matters specified in this Tariff Principle 7.7 as if such notifications, communications or information had been given, made, or provided directly by Shipper to Transporter. All CO₂ Concentrations provided by the Common Stream Operator and all allocations of the total volume of CO₂ in the Natural Gas being delivered at a Receipt Point for or on account of Shipper shall, as between Shipper and Transporter, be binding upon Shipper for whose account or on whose behalf they were made or provided by the Common Stream Operator. If any Common Stream Operator at a Receipt Point fails to provide Transporter with the CO₂ Concentration of the entire stream of Natural Gas being delivered at a Receipt Point or an allocation of the total volume of CO₂ in the Natural Gas delivered during each day for the account of all shippers at such Receipt Point or any other required data and information, each in a timely manner, then Transporter may, at its sole option, curtail the receipt of all Natural Gas at such Receipt Point without prior notice to any shipper at such Receipt Point or such Common Stream Operator, until such time as such Common Stream Operator provides all such data or information; provided that Transporter shall provide notice of any curtailment to each affected shipper or Common Stream Operator as soon as reasonably practicable following the occurrence of such event. Any such curtailment shall not relieve any shipper at such Receipt Point from any obligation to pay any rate, toll, charge, surcharge or other amount payable to Transporter.

- 7.8 Shipper and Transporter recognize that it may be necessary to allocate the volume of CO₂ contained in the commingled stream of Natural Gas to be delivered by Transporter to all shippers at the NOVA Interconnect in order that NOVA will be able to determine the NOVA charges associated with the transportation of Natural Gas on the NOVA transmission system which has a CO₂ Concentration in excess of the NOVA CO₂ Limit. If in any month, the CO₂ Concentration of the Natural Gas delivered by Transporter to all shippers at the NOVA Interconnect during such month is greater than the NOVA CO₂ Limit, then Transporter will determine an "Excess NOVA CO₂ Volume" for each shipper in accordance with the following formula:

$$\text{Excess NOVA CO}_2 \text{ Volume} = A \times (B - C) \times \frac{D}{E}$$

- where:
- A = the total volume of Natural Gas delivered by Transporter at the NOVA Interconnect during such month, as determined by Transporter;
 - B = the weighted average, by volume, CO₂ Concentration of all of the Natural Gas delivered by Transporter at the NOVA Interconnect, during such month, as determined by Transporter;
 - C = the NOVA CO₂ Limit for such month;
 - D = the volume of CO₂, if any, which was delivered by such shipper at all Receipt Points during such

month which was in excess of the product of the total volume of Natural Gas delivered by such shipper at all Receipt Points and the NOVA CO₂ Limit for such month; and

E = the total volume of CO₂ which was delivered by all shippers at all Receipt Points during such month which was in excess of the product of the total volume of Natural Gas delivered by all such shippers at all Receipt Points and the NOVA CO₂ Limit for such month.

If "B" is less than or equal to "C" the Excess NOVA CO₂ Volume for each shipper will be zero (0).

If "D" is equal to zero (0) for any shipper then the Excess NOVA CO₂ Volume for such shipper will also be zero (0).

7.9 Notwithstanding the Quality Specification for CO₂ Concentration set out in Tariff Principle 7.3(e), a shipper may commence delivering and thereafter continue to deliver Natural Gas which otherwise meets all other Quality Specifications at a particular Receipt Point even if the CO₂ Concentration of the entire stream of Natural Gas being delivered at such Receipt Point exceeds the NOVA CO₂ Limit; provided that:

- (a) such shipper has first complied with the requirements of Tariff Principle 7.10, if applicable;
- (b) acceptance of such Natural Gas would not, in Transporter's sole opinion, give rise to any safety concern to the Transportation System, to the NOVA transmission system or to any "NWT Core Market Consumer" (as defined in Toll Principle 8.2);
- (c) acceptance of such Natural Gas would not, in Transporter's reasonable opinion based on objective criteria, give rise to any operational concern to the Transportation System, to the NOVA transmission system or to any NWT Core Market Consumer; and
- (d) NOVA is prepared to accept an increase in the CO₂ Concentration of the commingled stream of Natural Gas at the NOVA Interconnect which would arise from the acceptance of such Natural Gas by Transporter.

7.10 At Transporter's request, each shipper which may have a total volume of CO₂ in the Natural Gas being delivered for the account of such shipper at a Receipt Point on any day which will be in excess of the product of the total volume of Natural Gas delivered by such shipper at such Receipt Point and the NOVA CO₂ Limit for such day shall, from time to time, provide Transporter with all assurances reasonably required by Transporter to confirm that such shipper has made all suitable arrangements with NOVA to transport such shipper's Excess NOVA CO₂ Volume. If any such shipper fails to provide any such

requested assurances forthwith following a request by Transporter, then Transporter may, at its sole option, curtail the receipt from such shipper of all Natural Gas to which such assurances relate, without prior notice to such shipper or the Common Stream Operator, until such time as such shipper provides the assurances requested. Any such curtailment shall not relieve any shipper from any obligation to pay any rate, toll, charge, surcharge or other amount payable to Transporter.

- 7.11 In addition to Transporter's rights pursuant to Tariff Principle 7.4 and notwithstanding Tariff Principle 7.9, Transporter may curtail the receipt of Natural Gas from all shippers at any Receipt Point where the CO₂ Concentration of the entire stream of Natural Gas being delivered at such Receipt Point exceeds the NOVA CO₂ Limit if, in Transporter's sole opinion, Transporter believes that the continued acceptance of such Natural Gas may give rise to any safety concern or operational concern to the Transportation System, to the NOVA transmission system or to any NWT Core Market Consumer. Transporter may implement all curtailments at any time without prior notice to any shipper or Common Stream Operator; provided that Transporter shall provide notice of any curtailment to each affected shipper or Common Stream Operator as soon as reasonably practicable following the occurrence of such event. Each shipper at a Receipt Point where the CO₂ Concentration of the entire stream of Natural Gas being delivered at such Receipt Point exceeds the NOVA CO₂ Limit will be subject to curtailment whether or not the volume of CO₂ in the Natural Gas being delivered for the account of such shipper at such Receipt Point is in excess of the NOVA CO₂ Limit. Any such curtailment shall not relieve any shipper from any obligation to pay any rate, toll, charge, surcharge or other amount payable to Transporter.
- 7.12 The provisions set out in Tariff Principles 7.3(e), 7.4 through 7.6 and 7.8 through 7.11 which address CO₂ Concentration and the acceptance of Natural Gas at any Receipt Point where the CO₂ Concentration of the entire stream of Natural Gas being delivered at such Receipt Point exceeds the NOVA CO₂ Limit were developed to reflect the practices and requirements of NOVA which were in effect as of June 1, 2006 and Transporter reserves the right, from time to time, to amend or alter any of Tariff Principles 7.3(e), 7.4 through 7.6 and 7.8 through 7.11 in order that the Tariff Principles conform with any revised NOVA practices or requirements.

8. LINEPACK

- 8.1 Transporter will provide the quantity of Natural Gas required to fill the Transportation System to its operating pressure.

9. MAINTENANCE

- 9.1 Transporter will carry out planned and unplanned maintenance to ensure the integrity of the Transportation System and its availability to shippers.
- 9.2 Transporter shall provide as much notice as is reasonably possible in connection with planned maintenance activities on the Transportation System.

10. SHIPPER'S NOMINATIONS

- 10.1 A nomination procedure involving structured and timely communication of the Transportation System capabilities and the transportation requirements of all shippers will be developed in order to promote the effective and efficient operation of the Transportation System.
- 10.2 The nomination process to be established by Transporter will be complementary with any nomination processes of the Persons operating the interconnecting downstream pipeline facilities at a Delivery Point and the interconnecting upstream facilities at a Receipt Point.

11. SCHEDULING & CURTAILMENTS

- 11.1 Transporter will create a daily schedule of receipts and deliveries on the Transportation System that will reflect all shippers' nominations and the available capacity on the Transportation System.
- 11.2 If nominations exceed available pipeline capacity, Transporter will allocate capacity and schedule receipts and deliveries according to an established priority order.
- 11.3 The quantities nominated for transportation will be scheduled in the following service priority order; first to firm service under firm service transportation agreements; second to authorized overrun service under firm service transportation agreements; and third to interruptible service under interruptible service transportation agreements.
- 11.4 If, after daily receipts and deliveries have been scheduled, Transporter must curtail scheduled receipts or deliveries it will do so in reverse priority order to the service priority order.

12. DEMAND CHARGE CREDITS

- 12.1 Subject to Tariff Principle 12.2, a credit to the Demand Charge payable under a firm service transportation agreement ("Demand Charge Credit") will be provided by Transporter to the shipper thereunder if Transporter has failed to accept for transportation an amount of Natural Gas which was properly nominated by such shipper for firm service, was available for delivery at the Receipt Point and which satisfied all quality specifications and all other obligations of such shipper under the Tariff. The amount of any Demand Charge Credit, expressed in \$/GJ, will be based on the applicable Demand Charge being paid by the shipper, converted to a \$/GJ amount, based on a 100% load factor.
- 12.2 No Demand Charge Credit will be provided nor will Transporter be liable to any shipper for any failure by Transporter to accept a shipper's Natural Gas for transportation if Transporter's failure to accept Natural Gas was a result of:

- (a) any scheduled or unscheduled maintenance on the Transportation System or an Event of Force Majeure claimed by Transporter, during the first 12 months of any such event;
- (b) an Event of Force Majeure claimed by such shipper;
- (c) such shipper's inability or failure to deliver Natural Gas at the Receipt Point; or
- (d) capacity constraints on the Transportation System arising from the ambient temperature being higher than the design ambient temperature utilized in the design of the Transportation System.

12.3 The provision of Demand Charge Credits will be Transporter's sole obligation and will be Shipper's sole remedy for any failure of Transporter to provide firm service to Shipper unless Transporter is in a position to provide firm service to Shipper but is in wilful default of an obligation to do so.

12.4 Demand Charge Credits due to a shipper relating to any month will be applied against the Demand Charges payable by such shipper in respect of such month.

13. GAS BALANCING AND TOLERANCES

13.1 Shipper will have an obligation to balance its Natural Gas receipts and Natural Gas deliveries on a daily basis within certain tolerance levels and if Shipper fails to do so Transporter may curtail the receipt of or the delivery of Shipper's Natural Gas.

13.2 Charges for imbalances may be imposed by Transporter and will be set at an amount which is intended to minimize imbalances and prevent system abuse by any shipper.

13.3 Transporter is responsible for ensuring the required physical balance of Natural Gas receipts and Natural Gas deliveries in order to maintain the operational integrity of the Transportation System.

14. MEASUREMENT

14.1 Transporter will measure or arrange for the measurement of all Natural Gas quantities and qualities at each Receipt Point and each Delivery Point.

14.2 Measurement will take place at each Receipt Point and each Delivery Point or at any upstream, downstream or other point along the Transportation System, at which Transporter determines that an accurate determination of the quantities and quality of Natural Gas delivered at any Receipt Point or any Delivery Point may be made.

14.3 Transporter will provide Shipper with a reasonable opportunity to inspect, test, and verify equipment, readings, and records.

15. BILLING AND PAYMENT

- 15.1 Transporter will submit an invoice to Shipper which sets out all Demand Charges, Commodity Charges, Low Heating Value Surcharges and other charges or surcharges incurred during the previous month and any Demand Charge Credits or rebates with respect to deliveries to NWT Small Market Consumers due to Shipper relating to the previous month.
- 15.2 If payment is not made by Shipper within certain defined time periods following receipt of an invoice then Shipper will be subject to the payment of interest, a potential suspension of service and a possible termination of its service agreement.

16. FORCE MAJEURE

- 16.1 Shipper's or Transporter's performance under a service agreement is excused upon the occurrence of any event or condition, foreseen or unforeseen, which is beyond the reasonable control of such Party to the extent that the non-performance is caused by such event (an "Event of Force Majeure").
- 16.2 Any Event of Force Majeure, whether claimed by Shipper or Transporter shall not relieve Shipper of its obligations to pay Demand Charges or Shipper's obligation to meet each Quality Specification with respect to Natural Gas delivered to Transporter at a Receipt Point.
- 16.3 Specific events which do not qualify as an Event of Force Majeure include:
- (a) financial hardship, including lack of funds;
 - (b) loss of market or market demand; and
 - (c) insufficient Natural Gas supply.
- 16.4 Specific events which do qualify as an Event of Force Majeure include insufficient total Natural Gas supplies being delivered by all shippers such that Transporter cannot operate the Transportation System.
- 16.5 A Party shall have the right to terminate a service agreement if the other Party's substantial or total performance impairment caused by a single Event of Force Majeure has been claimed by such other Party for a period of 24 consecutive months or more.

17. CONFIDENTIALITY

- 17.1 The Parties shall treat all information exchanged between them in accordance with a "Pipeline Code of Conduct" to be developed for the operating phase of the Transportation System.

18. CAPACITY ALLOCATION OR RELEASE

- 18.1 Shipper may allocate or release to another shipper its firm service transportation entitlement for its Contract Demand Quantity or any portion thereof and the authorized overrun service related thereto, by providing advance notice to Transporter; provided that any such allocation or release for any period in excess of 365 days shall be subject to the prior written consent of Transporter, not to be unreasonably withheld.
- 18.2 Shipper shall be entitled to make consecutive allocations or releases of any portion of its firm service transportation entitlement to the same shipper.
- 18.3 Notwithstanding any allocation or release by Shipper to another shipper, Shipper will remain responsible for all of Shipper's obligations under the Firm Service Transportation Agreement and the Tariff in respect of its entire Contract Demand Quantity.

19. NOTICES

- 19.1 Procedures for the delivery of notices shall be set out in the General Terms and Conditions.

20. POLICY WITH RESPECT TO EXPANSIONS OF THE TRANSPORTATION SYSTEM

- 20.1 After the Original Facilities have been constructed it is anticipated that additional capacity can be made available through the installation of additional compressor stations along the mainline pipeline. The purpose of this policy set forth in this Tariff Principle 20 is to describe Transporter's anticipated procedures for consideration of requests for service which will require the construction of additional facilities.
- 20.2 In all matters dealing with expansions, Transporter will follow the requirements set out in the NEB Act including Section 62 "Tolls to be just and reasonable", Section 67 "No unjust discrimination", Section 71(3) "Extension of facilities" and Section 72 "Extension of services of gas pipeline companies".
- 20.3 Transporter will administer requests for new service in a manner which ensures fair and equitable treatment to all shippers and prospective shippers. It is currently contemplated that Transporter's procedure for handling requests for new service will include:
- (a) the submission of a request for service by a prospective shipper on a standard form;
 - (b) the submission by a prospective shipper of all supporting information required by such form;
 - (c) when Transporter has received sufficient requests for service, Transporter will conduct an open season for the purpose of evaluating additional market interest in an expansion;

- (d) if Transporter determines that there is sufficient interest for an expansion expressed as a result of the open season, it will prepare precedent firm service transportation agreements relating to such expansion;
- (e) such precedent firm service transportation agreements must be executed by prospective shippers;
- (f) prospective shippers must meet all requirements under such precedent firm service transportation agreements including those dealing with creditworthiness and gas supply information;
- (g) the length of the term of the firm service transportation agreement resulting from such precedent agreements is expected to be 15 years or 20 years, with service beyond the end of the Initial Tolls Period being contingent on Transporter continuing to operate the Transportation System during such period in a manner substantially similar to the manner in which Transporter was operating the Transportation System at the end of the Initial Tolls Period;
- (h) if sufficient precedent agreements are entered into and the Pipeline Owners are prepared to proceed, Transporter will make the necessary regulatory applications subject to the terms of such precedent agreements; and
- (i) prior to Transporter's preparation of any regulatory application relating to an expansion, Transporter will canvas all shippers to determine if any shipper has an interest in assigning its contracted capacity to one or more prospective shippers.

20.4 It is currently contemplated that the tolls for an expansion would be determined on a rolled-in basis and the provisions set out in the Toll Principles would be applicable to determine the tolls for such expansion service. Tolls for an expansion would also be established on the principle that tolls for service under any firm service transportation agreement which has a shorter term will be higher than tolls for service under a firm service transportation agreement with a longer term. It is expected that the premium for shorter term firm service transportation agreements would always be equal to or greater than the amount of the FS-15 Toll Premium.

20.5 Nothing in this statement of policy set forth in this Tariff Principle 20 in respect of expansions shall require Transporter to file an application under Part III of the NEB Act nor prevent Transporter from contesting an application for the provision of facilities filed pursuant to Section 71(3) of the NEB Act or a request to compel the rendition of service pursuant to Section 71(2) of the NEB Act. Transporter reserves the right to seek a waiver from the NEB in respect of any matter addressed in the policy set forth in this Tariff Principle 20 for good cause shown during any proceeding before the NEB.

21. LIABILITY AND INDEMNITY

21.1 Notwithstanding anything in the Toll Principles or the Tariff Principles with the exception of Tariff Principle 4.3, neither Transporter nor Shipper will have any liability for, nor obligation to indemnify and save harmless the other from, any indirect or

consequential loss, damage, cost or expense whatsoever, whether based on breach of contract, negligence, strict liability or otherwise.

22. AVAILABILITY OF INTERRUPTIBLE SERVICE

Interruptible service will be available only to those shippers which also have a firm service transportation agreement which is then in effect and which have entered into an interruptible service transportation agreement.

SCHEDULE D

RATING AGENCIES AND MINIMUM RATINGS REQUIREMENTS

This Schedule D forms part of the Precedent Agreement for Firm Transportation dated the _____ day of _____, 20__ and shall be deemed to be attached thereto.

<u>Rating Agency</u>	<u>Minimum Ratings Requirement</u>
1. Moody's Investor Services	Baa2
2. Standard & Poor's	BBB
3. Dominion Bond Rating Service	BBB
4. Fitch Ratings	BBB

SCHEDULE E

REQUESTED SERVICE

This Schedule E forms part of the Precedent Agreement for Firm Transportation dated the _____ day of _____, 20__ and shall be deemed to be attached thereto.

Shipper: _____

Primary Term: _____ Years

Receipt Point: _____

Delivery Point: _____

Contract Demand Quantity: _____ GJ per day

Initials

Transporter _____

Shipper _____

Revision No. _____