

**GAS TRANSPORTATION TARIFF**  
**OF**  
**EMERA BRUNSWICK PIPELINE COMPANY LTD.**  
**FILED WITH**  
**NATIONAL ENERGY BOARD**

Communications Concerning This Tariff  
Should Be Addressed to:

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## PRELIMINARY STATEMENT

This National Energy Board (NEB) Gas Transportation Tariff is filed by Emera Brunswick Pipeline Company Ltd. (Brunswick Pipeline) in compliance with the requirements of the *National Energy Board Act* and sets forth the terms and conditions of the transportation rendered by Brunswick Pipeline. Brunswick Pipeline is a natural gas company engaged in the business of transporting natural gas in interprovincial commerce under authorization granted by and subject to the jurisdiction of the NEB.

The facilities owned by Brunswick Pipeline consist of a natural gas pipeline system extending from the Canaport™ Liquefied Natural Gas terminal in Saint John, New Brunswick to a point near St. Stephen, New Brunswick, at the international border between Canada and the United States. Brunswick Pipeline interconnects at the international border with Maritimes & Northeast Pipeline, L.L.C., a pipeline system that extends through the States of Maine and New Hampshire to a terminus near Dracut, Massachusetts.

The transportation of natural gas is undertaken by Brunswick Pipeline only under written contract acceptable to Brunswick Pipeline after consideration of its commitments to others, delivery capacity and other factors deemed pertinent by Brunswick Pipeline.

The tolls of Brunswick Pipeline are regulated by the NEB on a complaint basis. Brunswick Pipeline is required to make copies of tariffs and supporting financial information readily available to interested persons. Persons who cannot resolve traffic, toll and tariff issues with Brunswick Pipeline may file a complaint with the NEB. In the absence of a complaint, the NEB does not normally undertake a detailed examination of Brunswick Pipeline's tolls.



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**FORWARD HAUL TOLLS**  
(All tolls in \$/GJ)

<b>Toll Schedule</b>	<b>FT</b>	<b>IT</b>
<b>Reservation Charge (Monthly)</b>	•	NA
<b>Usage Charge Within Tolerances</b>	•	Bid with Floor
<b>Usage Charge Outside Tolerances</b>	•	•

The following adjustment applies to all Toll Schedules:

FUEL RETAINAGE PERCENTAGE:      PURSUANT TO ARTICLE 20 OF THE GT&C.

**BACKHAUL TOLLS**  
(All tolls in \$/GJ)

<b>Toll Schedule</b>	<b>FT</b>	<b>IT</b>
<b>Reservation Charge (Monthly)</b>	•	NA
<b>Usage Charge Within Tolerances</b>	•	Bid with Floor
<b>Usage Charge Outside Tolerances</b>	•	•

The following adjustment applies to all Toll Schedules:

FUEL RETAINAGE PERCENTAGE:      PURSUANT TO ARTICLE 20 OF THE GT&C.

**FUEL RETAINAGE PERCENTAGES**

FUEL RETAINAGE PERCENTAGE: PURSUANT TO ARTICLE 20 OF THE GT&C

<b>Winter (Nov-Mar)</b>	<b>0.0525%</b>
<b>Spring/Summer/Fall (Apr-Oct)</b>	<b>0.0525%</b>



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**Toll Schedule Designation and Title**

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**TOLL SCHEDULE FT  
FIRM TRANSPORTATION SERVICE**

**1. AVAILABILITY**

This Toll Schedule is available to any party (hereinafter called "**Customer**") which has requested firm transportation service pursuant to Article 3 of the GT&C and, after review and acceptance of such request by Pipeline, has entered into a Service Agreement with Pipeline for firm service under this Toll Schedule.

**2. APPLICABILITY AND CHARACTER OF SERVICE**

2.1 Service hereunder is available on any Day during a Service Year, and will be firm, except as provided herein, in the effective Service Agreement and in the GT&C.

2.2 Pipeline will receive for Customer's account for transportation hereunder daily quantities of gas up to Customer's Maximum Daily Transportation Quantity ("**MDTQ**"), plus an amount reflecting a Fuel Retainage Quantity as determined in GT&C Article 20 at the Point(s) of Receipt on Pipeline's system available to Customer pursuant to the effective Service Agreement and the GT&C. Such MDTQ shall be specified in the effective Service Agreement. Pipeline will transport and deliver for Customer's account such daily quantities tendered to Pipeline on a daily basis up to Customer's MDTQ at the Point(s) of Delivery on Pipeline's system available to Customer pursuant to the effective Service Agreement and the GT&C.

2.3 Pipeline shall not be obligated to add any facilities or expand the capacity of its pipeline system in any manner in order to provide new service pursuant to this Toll Schedule.

**3. TOLLS**

3.1 The applicable unit tolls for service hereunder are set forth in the Toll Sheets and are hereby incorporated herein. The tolls in this Toll Schedule are subject to adjustment pursuant to the GT&C and to change pursuant to the effective Service Agreement.

3.2 Effective as of the Date of Commencement of Service, as provided for in the effective Service Agreement, Pipeline shall charge and Customer shall pay Pipeline for mainline transportation service, including backhaul service (provided that Customer backhauling gas through a change in designation of receipt and delivery points shall not be required to pay an extra toll for such backhaul service), under this Toll Schedule each Month during the twelve (12) Month Service Year, the sum of the following amounts:

(A) Monthly Reservation Charge:

The Reservation Charge, as determined pursuant to Section 3.1 herein, multiplied by the MDTQ; and

- (B) Monthly Usage Charge consisting of the sum of the following daily charges:
- (1) The Usage Charge Within Tolerances, as set forth in the Toll Sheets, multiplied by that portion of the total quantity of gas deliveries on any Day pursuant to the effective Service Agreement, which is not in excess of the MDTQ.
  - (2) The Usage Charge Outside Tolerances, as set forth in the Toll Sheets, multiplied by that portion of the total quantity of gas deliveries on any Day pursuant to the effective Service Agreement, which is in excess of the MDTQ.

#### **4. POINTS OF RECEIPT AND DELIVERY**

- 4.1 The Primary Point(s) of Receipt at which Pipeline shall receive gas for transportation hereunder shall be specified in an exhibit to the Service Agreement between Pipeline and Customer, which exhibit may be superseded by a new exhibit to add or delete specific points or make other changes thereto the parties deem appropriate. Pipeline shall not accept any proposed Primary Point of Receipt if to do so would, in Pipeline's sole judgment, impair Pipeline's ability to satisfy existing firm obligations or to receive Company Used Gas at maximum deliverability levels or if the resulting aggregate MDRO's would exceed Customer's MDTQ. Notwithstanding the foregoing, all interconnections between the facilities of Pipeline and facilities of other operators shall be available as Secondary Point(s) of Receipt, subject to reduction by Pipeline on a pro rata basis with other Customers using the Point of Receipt as a Secondary Point of Receipt or as required in order to permit Pipeline to receive Company Used Gas. Customer's secondary receipt right at a Secondary Point of Receipt shall be equal to the capacity of Pipeline's facilities at such Point of Receipt or Customer's MDTQ, whichever is less.
- 4.2 The Primary Point(s) of Delivery at which Pipeline shall deliver gas for Customer's account under this Toll Schedule shall be specified in an exhibit to the Service Agreement between Pipeline and Customer, which exhibit may be superseded by a new exhibit to add or delete specific points or make other changes thereto the parties deem appropriate. Pipeline shall not accept any proposed Primary Point(s) of Delivery or quantity at any Primary Point(s) of Delivery, or change in quantities among Primary Point(s) of Delivery if the resulting aggregate MDDOs at all of Customer's Primary Point(s) of Delivery would exceed Customer's MDTQ. Notwithstanding the foregoing, all interconnections between the facilities of Pipeline and the facilities of other operators shall be available for use by Customer as Secondary Point(s) of Delivery, subject to reduction by Pipeline on a pro rata basis with other

Customers using the Point of Delivery as a Secondary Point of Delivery. Customer's secondary delivery right at a Secondary Point of Delivery shall be equal to the capacity of Pipeline's facilities at such Point of Delivery or Customer's MDTQ, whichever is less.

**5. NOMINATIONS AND SCHEDULING OF RECEIPTS AND DELIVERIES**

If Customer desires transportation of natural gas on any Day under this Toll Schedule, Customer must nominate service in accordance with Articles 5 and 6 of the GT&C.

**6. IMBALANCES**

Resolution of imbalances between receipts and deliveries associated with transportation under this Toll Schedule and Service Agreements under this Toll Schedule are governed by and resolved pursuant to Article 11 of the GT&C.

**7. RESERVATIONS**

Pipeline reserves the right to take actions as may be required to preserve the integrity of Pipeline's system, including maintenance of firm service to other customers.

**8. GENERAL TERMS AND CONDITIONS**

All of the GT&C are applicable to this Toll Schedule and service hereunder and are made a part hereof to the extent that such terms and conditions are not contradicted by any provision herein. In the event of a conflict between the GT&C and the provisions of this Toll Schedule or a Service Agreement under this Toll Schedule, the specific provisions of this Toll Schedule or a Service Agreement under this Toll Schedule shall control.

**TOLL SCHEDULE IT  
INTERRUPTIBLE TRANSPORTATION SERVICE**

**1. AVAILABILITY**

This Toll Schedule is available to any party (hereinafter called "**Customer**") which has requested interruptible transportation service pursuant to Article 3 of the GT&C and, after review and acceptance of such request by Pipeline, has entered into a Service Agreement with Pipeline for interruptible service under this Toll Schedule.

Pipeline shall post on the ECS its estimate of the quantity of available interruptible service which Pipeline expects to be able to render to Customers during the succeeding month.

**2. APPLICABILITY AND CHARACTER OF SERVICE**

2.1 Service hereunder is available on any Day during a Service Year, and will be interruptible as provided herein, in the effective Service Agreement and in the GT&C.

2.2 Service hereunder shall be subject to curtailment or interruption at any time that Pipeline determines in its sole discretion that deliveries hereunder would in any way interfere with or restrict Pipeline's ability to make deliveries of gas under any and all transportation services having a higher priority on Pipeline's system than service requested hereunder. Subject to the foregoing, Pipeline will receive for Customer's account for transportation hereunder daily quantities of gas up to Customer's Maximum Daily Transportation Quantity ("**MDTQ**"), plus an amount reflecting the Fuel Retainage Quantity as determined in GT&C Article 20 at the Point(s) of Receipt on Pipeline's system available to Customer pursuant to the effective Service Agreement and the GT&C. Such MDTQ shall be specified in the effective Service Agreement. Pipeline will transport and deliver for Customer's account such daily quantities tendered to Pipeline, on a daily basis up to Customer's MDTQ at the Point(s) of Delivery on Pipeline's system available to Customer pursuant to the effective Service Agreement and the GT&C.

2.3 Pipeline shall not be obligated to add any facilities or expand the capacity of its pipeline system in any manner in order to provide service pursuant to this Toll Schedule. Pipeline is free to contract at any time with other parties for new transportation services (whether firm or interruptible) without liability to Customer for any resulting interruption or reduction of transportation service hereunder.

**3. TOLLS**

Pipeline shall charge and Customer shall pay the nominated toll level and any applicable Usage Charges Outside Tolerances for all interruptible service provided hereunder.

Interruptible Transportation service under this IT Toll Schedule shall be subject to a floor equivalent to 120% of the applicable 100% load factor FT reservation and usage charges.

Bids for Interruptible Transportation service shall be expressed in dollars per GJ (\$/GJ) and be subject to minimum increments of \$0.01/GJ per bid. Each bid increment shall hereafter be referred to as a "**nominated toll level**".

#### **4. NOMINATIONS AND SCHEDULING OF RECEIPTS AND DELIVERIES**

4.1 If Customer desires transportation of natural gas on any Day under this Toll Schedule, Customer must nominate service in accordance with Articles 5 and 6 of the GT&C.

4.2 Quantities available for interruptible service will be allocated in accordance with the provisions of Sections 4.2 and 4.3 hereof. In addition to the information required from Customers for nominations for other services, all nominations for interruptible service shall contain the following information:

- (i) the nominated toll level
- (ii) the nominated quantity; and
- (iii) if applicable, a minimum quantity acceptable to Customer.

Subject to the provisions set out in this Toll Schedule IT, Pipeline shall authorize available interruptible service as part of its regular authorization process (see Articles 5 and 6 of the GT&C) in the following manner. Nominations will be authorized in descending order from highest to lowest nominated toll level. The total nominated quantity at each nominated toll level will be authorized before any nominations are authorized in the next lowest nominated toll level. If the remaining available Interruptible Transportation service is insufficient to provide service for all nominated quantities at a nominated toll level, the remaining available interruptible service will be authorized on a pro rata basis amongst all interruptible service nominations, at such nominated toll level.

On any Day, should a Customer advise Pipeline, within one hour of notice by Pipeline of the authorized quantity, that it is unable to utilize any portion of its authorized interruptible capacity to be effective 9:00 a.m. CT the following Day, then Pipeline will offer such excess capacity to other Customers who were not authorized their full nominated capacity. Such offerings by Pipeline shall be conducted consecutively based on nominated tolls, from the highest to lowest price, with service to be effective 9:00 am CT the following Day. Pipeline will continue such efforts until such time that interconnecting pipelines will no longer accept revisions to confirmed nominations to be effective 9:00 am CT the following Day.

4.3 A Customer shall confirm its intention to use the transportation service authorized by Pipeline either by allowing its original nomination to stand, if the full

nominated quantity has been authorized by Pipeline, or by renomination, if only a portion of the nominated transportation service is authorized by Pipeline. If Customer fails to renominate the authorized quantity within one hour after Customer has been notified of the authorized quantity, Customer shall be deemed to have renominated the authorized quantity.

A Customer may include as part of its nomination, a minimum quantity that will be acceptable to the Customer. In the event that Pipeline cannot authorize at least the minimum quantity specified by the Customer in its nomination, no service will be authorized to that Customer under that nomination.

**5. IMBALANCES**

Resolution of imbalances between receipts and deliveries associated with transportation under this Toll Schedule and Service Agreements under this Toll Schedule are governed by and resolved pursuant to Article 11 of the GT&C.

**6. RESERVATIONS**

Pipeline reserves the right to take actions as may be required to preserve the integrity of Pipeline's system, including maintenance of service to other customers.

**7. GENERAL TERMS AND CONDITIONS**

All of the GT&C are applicable to this Toll Schedule and service hereunder and are made a part hereof to the extent that such terms and conditions are not contradicted by any provision herein. In the event of a conflict between the GT&C and the provisions of this Toll Schedule or a Service Agreement under this Toll Schedule, the specific provisions of this Toll Schedule or a Service Agreement under this Toll Schedule shall control.



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## GENERAL TERMS & CONDITIONS

### BRUNSWICK PIPELINE

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## GENERAL TERMS AND CONDITIONS

Pipeline and Repsol Energy Canada Ltd. acknowledge that these General Terms & Conditions are based on Maritimes & Northeast Pipeline Limited Partnership's General Terms & Conditions on file with the NEB which contemplate multiple shippers. Pipeline and Repsol Energy Canada Ltd. agree that during all periods in which the Brunswick Pipeline is a single shipper Group 2 status pipeline, (i) the provisions contained herein which are applicable to a multiple shipper pipeline shall not apply to the Service Agreement between Pipeline and Repsol Energy Canada Ltd. and (ii) to the extent of conflict between these General Terms & Conditions and the Toll Agreement and Service Agreement, the terms of such Service Agreement and the Toll Agreement shall control.

### 1. DEFINITIONS

Except where the context expressly states another meaning, the following terms, when used in these General Terms and Conditions, in any Service Agreement into which these General Terms and Conditions are incorporated, shall be construed to have the following meanings:

- 1.1 "**Adjusted Index Price**" shall mean, on any Day, one hundred and fifty percent (150%) of the "Tenn. zone 6 (delivered)" price published in Gas Daily for that Day, less the Maritimes & Northeast Pipeline, L.L.C., 100% load factor recourse rate for MN365 firm service; such price in \$U.S./MMBtu then converted to \$Cdn/GJ by applying the: (i) currency settlement conversion factor from U.S. dollars to Canadian dollars published in the same volume of Gas Daily; and (ii) the GJ Conversion Factor. If the Tenn. zone 6 (delivered) price ceases to be available, Pipeline shall replace it with an index that reasonably represents the Boston City Gate Price, or international border price, as applicable.
- 1.2 "**British thermal unit**" or "**Btu**" shall mean the International Btu, which is also called the Btu (IT).
- 1.3 "**Business Day**" shall mean Monday through Friday, excluding federal banking holidays for transactions in Canada, and similar holidays for transactions occurring in the U.S.
- 1.4 "**Cash-out Party**" shall mean the Customer or other contractually liable entity who has an imbalance under an agreement with Pipeline, which imbalance will be resolved in accordance with Section 11 of the General Terms and Conditions; provided however, the term "Cash-out Party" shall not include an "OBA Party" as defined herein.
- 1.5 "**Central Time**" or "**CT**" shall mean Central Clock Time, which includes the recognition of Daylight Savings Time.
- 1.6 "**Company Used Gas**" shall mean the amount of gas used for fuel, including compressor and heater fuel; gas used for maintenance; and unaccounted for gas; provided that until Pipeline installs compression, no compressor fuel shall be included in such amount. Changes in Company Used Gas shall be tracked pursuant to GT&C Article 20.

- 1.7 **"Credit Rating"** shall mean, with respect to an entity, the lowest of the ratings then assigned to such entity's unsecured, senior long-term debt obligations (not supported by third party credit enhancements), or issuer or general corporate rating, in each case, by DBRS, Moody's, S&P and/or any other ratings agency agreed to by the Pipeline from time to time.
- 1.8 **"Cubic Metre"** or **"m<sup>3</sup>"** shall mean the volume of gas which occupies one cubic metre of space, measured according to Boyle's and Charles' Law for the measurement of gas under varying pressures with deviation therefrom as provided in Article 14 of the GT&C and on the measurement basis likewise specified in Article 14.
- 1.9 **"10<sup>3</sup>m<sup>3</sup>"** shall mean one thousand (1,000) Cubic Metres of gas.
- 1.10 **"Customer"** shall mean an entity that has executed a Service Agreement in the form contained in this Tariff, providing for the transportation of gas by Pipeline.
- 1.11 **"Date of Commencement of Service"** shall mean the date on which Pipeline is ready, willing and able to provide service and all contractual conditions to the commencement of service have been satisfied.
- 1.12 **"Day"** shall mean a period of twenty-four (24) consecutive hours, beginning at 9:00 a.m. Central Time (11:00 a.m. Atlantic Clock Time, which includes the recognition of Daylight Savings Time).
- 1.13 **"DBRS"** shall mean Dominion Bond Rating Service, or its successor.
- 1.14 **"ECS"** shall mean the electronic communications system provided by Pipeline or others which may be used for the purposes set forth in Article 2 of the GT&C.
- 1.15 **"Fuel Retainage Quantity"** shall have the meaning ascribed thereto in Section 20.1.
- 1.16 **"Fuel Retainage Percentage"** shall have the meaning ascribed thereto in Section 20.2.
- 1.17 **"GT&C"** shall mean these General Terms and Conditions of the Tariff, as effective from time to time.
- 1.18 **"GJ"** shall mean one billion (1,000,000,000) Joules.
- 1.19 **"GJ Conversion Factor"** shall mean the formula defined herein which Pipeline will use to convert Imperial System **"MMBtus"** into **"GJs"** of natural gas for purposes of transportation under this Tariff. The Conversion Factor is 1 GJ = 0.947817 MMBtu.
- 1.20 **"Guarantor"** shall mean an entity which has provided a guaranty of a party's obligations under this Base Contract to the other party.
- 1.21 **"Investment Grade Credit Rating"** shall mean a Credit Rating of (a) BBB (low) or higher for DBRS, (b) Baa3 or higher for Moody's and/or (c) BBB- or higher for S&P.

- 1.22 "**Joule**" shall mean the work done by a force of 1 Newton with a displacement of 1 meter in the direction of the force.
- 1.23 "**kiloPascal**" or "**kPa**" shall mean kiloPascals of pressure absolute.
- 1.24 "**Letter(s) of Credit**" shall mean one or more irrevocable, transferable standby letters of credit issued by a Schedule I Canadian Chartered Bank, or a Canadian branch of a major commercial bank which is not a Schedule I Canadian Chartered Bank, with such bank having a Credit Rating of at least A from DBRS or S&P or A3 from Moody's, in a form and for an amount acceptable to Pipeline in its commercially reasonable discretion.
- 1.25 "**Long Term**" Service Agreement shall mean a Service Agreement with a primary term of one year or more from the Date of Commencement of Service.
- 1.26 "**Maritimes & Northeast Pipeline, L.L.C.**" shall mean the Delaware limited liability company that will own the pipeline system interconnecting with the Pipeline at the international border between Canada and the United States and extending to a point near Dracut, Massachusetts.
- 1.27 "**Maximum Daily Delivery Obligation**" and "**MDDO**" shall mean the maximum quantity of gas Pipeline is obligated to deliver to Customer, or for Customer's account, on any given Day at a Point of Delivery as set forth in Customer's Service Agreement.
- 1.28 "**Maximum Daily Transportation Quantity**" and "**MDTQ**" shall mean the maximum daily quantity of gas exclusive of the Pipeline's Fuel Retainage Quantity that: (a) Customer may tender for transportation in the aggregate to all Points of Receipt; and (b) Pipeline is required to deliver to all Points of Delivery; provided, however, Pipeline shall not be obligated to deliver gas at rates in excess of a uniform hourly rate unless agreed to otherwise by Pipeline and Customer.
- 1.29 "**Maximum Daily Receipt Obligation**" and "**MDRO**" shall mean the maximum quantity of gas Pipeline is obligated to receive for Customer's account on any given Day at a Point of Receipt as set forth in Customer's Service Agreement, exclusive of any applicable Fuel Retainage Quantity.
- 1.30 "**MJ**" shall mean one million (1,000,000) Joules.
- 1.31 "**MMBtu**" shall mean one million (1,000,000) Btus.
- 1.32 "**Month**" shall mean the period beginning at 9:00 a.m. Central Time (11:00 a.m. Atlantic Clock Time, which includes the recognition of Daylight Savings Time), on the first Day of a calendar Month, and ending at the same hour on the first Day of the next succeeding calendar Month.
- 1.33 "**Moody's**" shall mean Moody's Investor Services, Inc., or its successor.

- 1.34 **"NEB"** shall mean the National Energy Board or any successor regulatory authority having jurisdiction over Pipeline under the National Energy Board Act or successor or replacement legislation.
- 1.35 **"Nomination Period"** shall mean a period of time that Customer includes in a nomination for gas service.
- 1.36 **"OBA"** shall mean an Operational Balancing Agreement between Pipeline and a counterparty ("**OBA Party**") meant to facilitate more efficient operations, accounting, and system management at the point where the OBA Party interconnects with Pipeline's system. As used herein, an "OBA Party" shall mean a party that has entered into an OBA with Pipeline. An OBA Party is not a "Cash-out Party," as such term is defined herein; provided however that nothing herein shall preclude Pipeline and an OBA Party from entering into an OBA that incorporates, explicitly or by reference, all or part of the cash-out procedures provided under Section 11 of these General Terms and Conditions.
- 1.37 **"Operator"** shall mean Emera Brunswick Pipeline Company Ltd. or such other entity as Emera Brunswick Pipeline Company Ltd. may designate as having responsibility for operation of Pipeline.
- 1.38 **"Pipeline"** means Emera Brunswick Pipeline Company Ltd.
- 1.39 **"Primary Point of Delivery"** shall mean a Point of Delivery specified in a Service Agreement, at which Pipeline has a firm MDDO.
- 1.40 **"Primary Point of Receipt"** shall mean a Point of Receipt specified in a Service Agreement, at which Pipeline has a firm MDRO.
- 1.41 **"Secondary Point of Delivery"** shall mean a Point of Delivery, other than a Primary Point of Delivery, available to Customer as provided for in the applicable Service Agreement.
- 1.42 **"Secondary Point of Receipt"** shall mean a Point of Receipt, other than a Primary Point of Receipt, available to Customer.
- 1.43 **"Service Agreement"** shall mean the service agreement executed by Customer and Pipeline or otherwise made effective and any exhibits, attachments, and/or amendments thereto.
- 1.44 **"Service Year"** shall mean the period commencing on November 1 of any given calendar year and ending the following October 31.
- 1.45 **"Short Term"** Service Agreement shall mean a Service Agreement with a primary term of less than one year from the Date of Commencement of Service.
- 1.46 **"S&P"** shall mean Standard & Poor's Ratings Group (a division of McGraw-Hill, Inc.) or its successor.

- 1.47 **"Tariff"** shall mean Pipeline's NEB Gas Tariff, including but not limited to Toll Sheets, Toll Schedules, General Terms and Conditions, and Forms of Service Agreements, as may be revised and effective from time to time in accordance with the National Energy Board Act and regulations; provided that Customer shall have the right to intervene, file comments, or file a complaint in any such proceeding.
- 1.48 **"Toll Schedule(s)"** shall mean one or more of the toll schedules contained in the Tariff.
- 1.49 **"Toll Sheet(s)"** shall mean one or more of the toll sheets contained in the Tariff.
- 1.50 **"Toll Agreement"** shall mean that certain Negotiated Toll Agreement between Repsol Energy Canada Ltd. and Pipeline dated May 15, 2006.
- 1.51 **"Total Heating Value"** shall mean the number of Joules, expressed in megajoules per cubic metre (MJ/m<sup>3</sup>), produced by the complete combustion with air, of one dry cubic metre of gas at a constant pressure of one hundred one and three hundred twenty-five thousandths (101.325) kiloPascals, and a temperature of sixty (60) degrees Fahrenheit (or fifteen point six (15.6) degrees Celsius) when the products of combustion are cooled to the initial temperature, and the water formed by combustion is condensed to the liquid state.
- 1.52 **"Usage Charge LLC"** shall mean the then-current, applicable Usage Charge, pursuant to the Maritimes & Northeast Pipeline, L.L.C. FERC Gas Tariff, as amended from time-to-time.

## **2. ELECTRONIC COMMUNICATION**

- 2.1 Pipeline will make available, at no additional charge to Customers, an Electronic Communications System (ECS) for use by Customers. The ECS is an interactive system pursuant to which Customers shall submit nominations and monitor their accounts. The ECS shall be available on a non-discriminatory basis to any Customer provided that such Customer agrees to comply with the procedures for access to the ECS and with the procedures for use of the ECS.
- 2.2 For generic, system-wide notices any provisions of this Tariff requiring that these matters be written or in writing are satisfied by Pipeline 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 written or in writing are satisfied by Customer 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 written or in writing remain unchanged unless otherwise agreed by Pipeline and Customer. Critical system-wide notices shall have a separate category from notices that are not critical.

## **3. SERVICE REQUESTS AND CONTRACTING FOR SERVICE**

- 3.1 Customers seeking service from Pipeline must submit a request for service in the form set forth herein and containing the information described herein. No gas will be scheduled

for receipt and delivery until a completed service request form has been provided and Customer's credit evaluation pursuant to Sections 3.6 or 3.7 of the GT&C is satisfactory. In the event Pipeline determines that Customer's request for service does not comply with this Article 3 or Customer's credit evaluation does not comply with Sections 3.6 or 3.7 of the GT&C, Pipeline shall, within twenty Days of receiving Customer's request, provide Customer with written notice of the deficiencies and the additional information or changes required to complete the request. Customer shall have the right for a period of ten Days after such notice to supplement Customer's request as required to comply with this Article 3. Pipeline shall, within ten Days of receiving any additional information or changes from Customer, provide Customer with written notice of whether Customer's request, as supplemented, is satisfactory. If Customer's request, as supplemented, remains incomplete and deficient, then Customer's request shall be deemed void.

3.2 If Customer's request for service and credit evaluation comply with the GT&C, and capacity is allocated to Customer pursuant to Article 4, Pipeline will tender a service agreement to Customer. In the event the service agreement is not executed by Customer and returned within thirty Days after Pipeline tendered the service agreement, Pipeline shall consider the request invalid and the service agreement shall be void and Pipeline shall refund any prepayment paid or return any security given by Customer pursuant to Article 3 of the GT&C. If Customer's request for service and credit evaluation comply with the GT&C, and capacity is not allocated to Customer, Pipeline shall log the request in its service queue.

3.3 All firm transportation requests shall be subject to the following conditions:

(a) No request for transportation from a Primary Point of Receipt or to a Primary Point of Delivery shall be considered valid or be granted if to do so would impair Pipeline's ability to render existing services pursuant to Pipeline's firm service Toll Schedules.

(b) Subject to the provisions of (a) above, amendments to any firm Service Agreement or exhibit to add additional Primary Point(s) of Receipt or Primary Point(s) of Delivery pursuant to an applicable firm Toll Schedule will not be considered a new transaction for purposes of complying with this Article 3. Any Customer receiving permission from Pipeline to use any new Primary Point(s) of Receipt or new Primary Point(s) of Delivery shall be deemed to have complied with the requirements of this Article 3 for purposes of receiving priority in contracting for such new Primary Point(s) of Receipt or new Primary Point(s) of Delivery for a firm MDRO or MDDO over any third party requesting firm transportation under a firm Toll Schedule at that Primary Point(s) of Receipt or Primary Point(s) of Delivery if, at the time of Customer's request, said third party's request has not been accepted by Pipeline. The priority for such new Primary Point(s) of Receipt or Primary Point(s) of Delivery shall be determined in accordance with this Article 3.

3.4 Customers seeking service from Pipeline must submit a request for service in the following form:



Emera Brunswick Pipeline Company Ltd.  
c/o General Manager  
1 Germain Street, Suite 1204  
Saint John, New Brunswick  
E2L 4V1

\_\_\_\_\_ ("**Customer**") hereby requests transportation service from Emera Brunswick Pipeline Company Ltd. ("**Pipeline**") and hereby provides the following information in connection with this request:

(a) Complete legal name of Customer:

\_\_\_\_\_  
\_\_\_\_\_

(b) Type of legal entity and province of incorporation:

\_\_\_\_\_  
\_\_\_\_\_

(c) The specific affiliation of the party requesting service with Pipeline, if any.

(d) (1) Name of person responsible for this request; address, telephone and facsimile numbers to which correspondence or other communications should be directed. State relationship to Customer.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(2) Name, address, telephone number and facsimile number of 24-hour contact person(s) for purposes of dispatching.

\_\_\_\_\_  
\_\_\_\_\_

(e) Are additional or new Customer facilities required to receive or deliver gas for the transportation service requested herein?

\_\_\_\_\_ Yes                      \_\_\_\_\_ No

(f) Name and title of the person or persons who are authorized to execute a written transportation agreement with Pipeline.

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- (g) (1) In the case of firm service, name and detailed description of Primary Point(s) of Receipt and the maximum daily quantities of gas to be delivered by Customer for each point:

<u>Primary Point of Receipt</u>	<u>Maximum Daily Receipt Obligation (GJ)</u>	<u>Total for Term of Contract (GJ)</u>	<u>Name of Party/Parties Receiving Gas</u>
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- (2) In the case of firm service, name and detailed description of Primary Point(s) of Delivery where Pipeline will redeliver the gas and the maximum daily quantities of gas to be redelivered by Pipeline for each point:

<u>Primary Point of Receipt</u>	<u>Maximum Daily Delivery Obligation (GJ)</u>	<u>Total for Term of Contract (GJ)</u>	<u>Name of Party/Parties Receiving Gas</u>
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- (h) (1) Service is requested under Toll Schedule:

FT \_\_\_\_\_

IT \_\_\_\_\_

- (2) Date service is proposed to commence: \_\_\_\_\_

- (3) Date service is proposed to terminate: \_\_\_\_\_

- (i) For firm service, will Customer accept a partial allocation of capacity, beyond any specified minimum amount, in the event Pipeline is unable to satisfy the full request (while maintaining the balance of the service request)?

\_\_\_\_\_ Yes

\_\_\_\_\_ No

If Yes, Minimum Amount: \_\_\_\_\_ GJ/d

- (j) Customer must provide the credit evaluation information set forth in Section 3.6 of the GT&C

- (k) Customer acknowledges that Pipeline will provide toll and billing information regarding the total amount owed by Customer on Customer's invoice in Canadian currency.
- (l) Submission of this request shall constitute certification that, prior to the commencement of construction:
  - (1) Customer has or will have title to, or a good right to tender for transportation (and all necessary authorizations related thereto), the gas to be transported by Pipeline.
  - (2) Customer has or will enter into all necessary third-party transportation agreements to transport the gas to the party ultimately receiving the gas.
  - (3) If Customer is not a direct end-user of the gas to be transported, Customer has arranged for, or will arrange for, contractual arrangements to be in place for consignment of such gas to a third party or parties at the selected Delivery Point.
- (m) Customer understands that a request for service in the form set forth herein, complete and unrevised as to format, must be received by Pipeline before the transportation request will be processed. Customer hereby agrees to pay Pipeline's currently effective transportation toll applicable to this service. In the case of firm service requiring the construction of additional facilities, Customer agrees to pay tolls as negotiated by Customer and Pipeline and as may be required to be approved by the NEB, designed, *inter alia*, to reimburse Pipeline for the cost of construction of such additional facilities. Customer, by its signature, represents to Pipeline that the information set forth in this transportation request is correct and accurate and that all necessary transportation arrangements with the upstream and downstream transporters, as stated herein, have been or will be secured prior to the commencement of the requested transportation services.

Date: \_\_\_\_\_  
Signature: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

3.5 At the time of requesting firm service, Customer shall make a prepayment by wire transfer in an amount equal to an amount not less than \$25,000.00, or with an amount equal to one day's worth of demand charges and use, whichever is higher, having regard to, *inter alia*, the service levels specified in Customer's request. If Pipeline rejects Customer's request pursuant to Section 3.1 of the GT&C, Pipeline will refund the prepayment to Customer at that time. If Customer's request is accepted by Pipeline, then: (i) if Customer subsequently abandons the request, the prepayment will be forfeited to Pipeline; or (ii) if Customer subsequently enters into a Service Agreement with Pipeline, the prepayment shall be applied to the first Month's invoice.

- 3.6 Pipeline shall apply, on a non-discriminatory basis, consistent financial evaluation standards to determine the acceptability of Customer's overall financial condition. Such credit appraisal and any further or ongoing credit appraisal as may be necessary shall be based upon the following information and criteria:
- (a) Customer shall provide current financial statements, annual reports, securities reports or other filings with regulatory agencies which discuss Customer's financial status; a list of all corporate affiliates, parent companies and subsidiaries; and any reports from credit reporting and bond rating agencies which are available. Pipeline shall determine the acceptability of Customer's overall financial condition. Pipeline shall maintain the confidentiality of all proprietary information provided by Customer hereunder, provided that Pipeline may disclose such information: (i) to its partners, employees, affiliates, consultants, representatives, agents, sponsors, bank lenders, lead bond arrangers and rating agencies under confidentiality agreements or requirements; and (ii) to the extent that disclosure is required by law, by any governmental or regulatory body having jurisdiction or as may be necessary to answer claims against Pipeline in any proceeding before a governmental or regulatory body (provided, in such instance, Pipeline will use reasonable efforts to maintain the confidentiality of the material).
  - (b) A Customer requesting either (a) short term firm transportation service with a primary term of one (1) year or less, (b) long-term firm transportation service with a primary term of more than one (1) year or (c) or interruptible service of any term must: (i) demonstrate that the Customer or (if applicable) Customer's Guarantor has an Investment Grade Credit Rating.
  - (c) If such a Customer or (if applicable) Customer's Guarantor does not have a Credit Rating, credit may be granted by Pipeline at Pipeline's sole discretion. Provided, however, that Customer or (if applicable) Customer's Guarantor must demonstrate a creditworthiness equivalent to an Investment Grade Credit Rating.
  - (d) Customer shall confirm in writing that neither Customer nor (if applicable) Customer's Guarantor is operating under any bankruptcy laws or is subject to liquidation or debt reduction procedures, such as an assignment for the benefit of creditors, or any informal creditors' committee agreement.
  - (e) Customer shall confirm at the time of the request in writing for the benefit of Pipeline that Customer is not aware of any change in business conditions which would cause a substantial deterioration in Customer's or (if applicable) Customer's Guarantor's financial condition, a condition of insolvency, or the inability to exist as an ongoing business entity.
  - (f) Customers with an ongoing business relationship with Pipeline shall have no delinquent balances outstanding for services made previously by Pipeline, and each Customer must have: (i) paid its account according to the established terms;

and (ii) not made deductions or withheld payment for claims not authorized by contract.

- (g) Customer shall confirm at the time of the request in writing for the benefit of Pipeline that no significant claims, lawsuits or judgments are outstanding which would materially affect Customer's or (if applicable) Customer's Guarantor's ability to remain solvent as a business entity.

3.7 If Customer or (if applicable) Customer's guarantor does not meet the credit criteria for a Service Agreement under subsections 3.6(b), or subsequently during the term of a long-term Service Agreement if Customer or (if applicable) Customer's Guarantor no longer satisfies such credit criteria (in which case Customer shall notify Pipeline that Customer or (if applicable) Customer's Guarantor does not continue to satisfy such credit criteria immediately upon becoming aware of same), such Customer may still obtain credit approval by Pipeline if it elects to provide one of the following:

- (a) an advance deposit in the amount specified below;
- (b) a Letter of Credit from a financial institution acceptable to Pipeline in the amount specified below;
- (c) security interest in collateral satisfactory to Pipeline; or
- (d) a guarantee, acceptable to Pipeline, by another Guarantor which satisfies the credit appraisal criteria set forth in Section 3.6.

If Customer provides an advance deposit or other credit instrument and then subsequently satisfies or obtains a guarantee from an entity that satisfies the credit criteria set forth in Section 3.6, Pipeline shall return and/or cancel such advance deposit (with accrued interest) or credit instrument forthwith.

The advance deposit or Letter of Credit should at all times equal the amount equal to twelve (12) Months of reservation charges for the requested MDTQ at the applicable unit toll hereunder. The costs of a Letter of Credit or other credit instrument shall be borne by the applicant and not Pipeline. Customer shall continue to provide such advance deposit or Letter of Credit for a period of twelve (12) Months following the termination of service, unless Customer pays all of the amounts of any invoices for service as reasonably determined by Pipeline prior to that time. If security or a deposit is not tendered in a timely period as reasonably determined by Pipeline, then Pipeline is not required to continue service. If Customer or (if applicable) Customer's Guarantor is unable to maintain credit approval by satisfying the requirements of Section 3.6 or Section 3.7, as applicable, Pipeline shall have the option to terminate the executed Service Agreement by written notice to Customer, in which event the Service Agreement shall terminate as of the first Day of the Month following such written notice.

3.8 Where new Pipeline facilities are required to provide new service, Pipeline may, at its sole discretion, require the customers (or assignees) for the new firm service agreements to meet the credit criteria in subsections 3.6(b) above.

#### **4. ALLOCATION OF CAPACITY ENTITLEMENTS**

4.1 Allocation of Capacity. Pipeline will allocate pipeline capacity in accordance with the terms and conditions set forth in Sections 4.2, 4.3 and 4.4 of the GT&C.

#### 4.2 Unsubscribed Capacity

- (a) Subject to requirements for requests for firm service in the GT&C and the terms and provisions of the Toll Agreement, firm capacity that is available but is not currently subscribed and which is not required will be allocated to that request(s) generating the highest net present value to Pipeline. Net present value will be determined based on the discounted cash flow of revenues to Pipeline produced, lost, or affected by the request(s) for service. In determining the highest net present value, Pipeline will consider objective criteria only. Such criteria may include, without limitation, the maximum contract quantity requested, the term of the service requested, the date on which the requested service would commence, and such other objective criteria available based on the requests for service received by Pipeline. The net present value evaluation shall include only revenues generated by the reservation charge component exclusive of any discounts. The net present value discount factor used by Pipeline will be applied consistently to all requests for capacity being evaluated at a particular point in time.
- (b) For request(s) for firm service, provided that capacity is available to satisfy any such request(s), Pipeline shall conduct an open season and shall post the notice of such open season within twenty-four (24) hours of receiving the request(s) for firm service. To the maximum extent possible, Pipeline will attempt to structure any such posting so as not to identify specifically the customer or potential customer submitting the request and/or the specific location of the market(s) to be served. Any open season pursuant to this Section 4.2 will be conducted to determine which Customer or potential customer values any available capacity the most.
- (c) For any open season conducted pursuant to this Section 4.2 such open season shall be held for a minimum of: (i) two (2) Business Days for service offerings with a term of less than one (1) year; or (ii) fifteen (15) Business Days for service offerings with a term of one (1) year or more. In no event shall the open season be for a period greater than one (1) Month. All open seasons shall end at 2:00 p.m. CT not less than two (2) Business Days prior to the date service would be available. Any such posting shall, at a minimum, describe the service available, the date(s) that the service will be available, the duration for which the service will be available, the capacity path, any minimum terms and conditions, any other factors Pipeline shall consider in evaluating requests received during the open season, and any other rules applicable to the open season procedure.
- (d) In the event that Pipeline receives two (2) or more requests for service which produce an equivalent net present value, whether during an open season or

otherwise, any available capacity will be allocated between or among such service requests which have indicated a willingness to accept a partial allocation of capacity.

- (e) Pipeline shall post the winning request(s) and the method of evaluating such request(s) on the ECS within twenty four (24) hours after the award of capacity.

#### 4.3 Capacity Created as a Result of Constructing Additional Facilities.

- (a) All Customers and potential customers are put on notice that Pipeline may, but is not required to, from time to time, conduct periodic open seasons for the purpose of evaluating market interest to expand and/or extend Pipeline's transportation system. If Pipeline does conduct an open season, any additional pipeline capacity made available by such expansion and/or extension will be allocated under the terms and conditions of such open season.
- (b) If Pipeline conducts an open season for pipeline capacity associated with the facilities of Maritimes & Northeast Pipeline, L.L.C. or any other downstream pipeline, Pipeline shall make reasonable efforts to coordinate such open season with Maritimes & Northeast Pipeline, L.L.C. or other downstream pipeline, respectively.

#### 4.4 Capacity under Terminating Long Term Agreements. Within thirty Days of the issuance by Pipeline or Customer of a notice of termination of a Long Term firm Service Agreement, which notice shall be provided at least two years in advance, Pipeline shall post such capacity for bid on its ECS, setting forth the following information:

- (1) Point(s) of Receipt and Point(s) of Delivery,
- (2) the specific quantity available under the terminated agreement,
- (3) the date of expiration, and
- (4) the current toll applicable to the terminated service.

For capacity made available upon termination of a Long Term firm Service Agreement, the bid must incorporate the applicable toll and specify the contract term. The bid period shall end no later than sixty Days before the effective date of the termination of the Service Agreement. A bidder may make multiple bids for the same capacity. At the close of the bid period, Pipeline shall select among the valid bids the bid with the longest contract term ("**Best Bid**"). If more than one bidder submits the Best Bid, the first bidder in time shall be selected as the Best Bid. Customer holding the firm service will have a right of first refusal provided that such right of first refusal does not attach to: (i) a Customer under a firm Service Agreement which provides written notice to Pipeline to terminate such firm Service Agreement; (ii) termination of a Service Agreement by Pipeline pursuant to Sections 3.7, 15.3 or Article 16 of the GT&C; (iii) any Short Term firm Service Agreement; (iv) Service Agreements with a fixed contract term; or (v) interruptible Service Agreements. If Customer has a right of first refusal, then Pipeline

shall relay the terms of the Best Bid to the Customer whose long-term firm Service Agreement is being terminated. Upon written notification from Pipeline of the terms of the Best Bid, Customer shall have the right for a thirty-Day period to notify Pipeline whether Customer is willing to match the Best Bid. Failure to notify Pipeline in writing within said thirty-Day period constitutes a non-revocable waiver of Customer's right to match the Best Bid. In order to match the Best Bid, Customer must agree to a contract term equal to or longer than the contract term set forth in the Best Bid, up to a period of five years.

## 5. SERVICE NOMINATION PROCEDURE

5.1 Customer shall furnish or cause to be furnished to Pipeline nominations showing the quantity of gas to be received and delivered by Pipeline, by individual Point of Receipt and individual Point of Delivery, for each Day of the Nomination Period as required below:

(a) Such nomination shall reflect Customer's contract number; the beginning and ending dates of the period for which the deliveries are desired, provided the nomination beginning and ending dates are within the term of Customer's contract; the quantity of gas to be received, including Fuel Retainage Quantity and any make-up quantity pursuant to Articles 8 or 11, at each Point of Receipt and the quantity of gas to be delivered at each Point of Delivery on Pipeline. Such nomination shall also specify such information as Pipeline reasonably determines necessary to perform service. To the extent Customer desires to change its nomination for any Nomination Period, Customer must submit a new nomination for such Nomination Period to replace in its entirety the prior nomination. When a nomination for a date range is received, each Day within that range is considered an original nomination. When a subsequent nomination is received for one or more Days within that range, the previous nomination is superseded by the subsequent nomination only to the extent of the Days specified. The Days of the previous nomination outside the range of the subsequent nomination are unaffected. Nominations have a prospective effect only.

(b) Subject to Sections 8.8 and 11.1, the quantity of gas nominated at each Primary Point(s) of Receipt shall not exceed the MDRO, plus applicable Fuel Retainage Quantity, and the quantity of gas nominated at each Primary Point of Delivery shall not exceed the MDDO.

5.2 Timely Nomination Cycle. The nomination of deliveries under all Toll Schedules to commence on the first Day of any Nomination Period shall be submitted to Pipeline no later than the time specified in the nomination timeline below, or such lesser period as is acceptable to Pipeline, prior to the first Day of the Nomination Period.



The nomination timeline shall be Central Time on the Day prior to gas flow:

11:30 a.m.	Nomination leaves control of the nominating party
11:45 a.m.	Receipt of nomination by Pipeline through the ECS
12:00 p.m.	Quick response by Pipeline regarding validity of data elements of nominations received through the ECS at 11:45 a.m.
3:30 p.m.	Receipt of completed confirmations by Pipeline from upstream and downstream connected parties
4:30 p.m.	Receipt of scheduled quantities by Customer and point operator

Should Customer fail to provide this nomination as specified above, Pipeline may deem Customer's nomination to be zero. Pipeline shall have the right to refuse to receive or deliver any gas not timely and properly nominated. Pipeline shall not be liable to Customer or any other person as a direct or indirect consequence of such refusal and Customer shall indemnify Pipeline from and against any and all losses, damages, expenses, claims, suits, actions and proceedings whatsoever threatened, incurred or initiated as a result of such refusal unless such refusal was due to Pipeline's gross negligence, undue discrimination or willful misconduct.

### 5.3 Other Nomination Cycles

(a) Evening Nomination Cycle. Subsequent to the Timely Nomination Cycle, as described in Section 5.2, Customer may alter its nominations provided that the nomination given by Customer to Pipeline for deliveries starting at 9:00 a.m. CT on the following Day shall be submitted to Pipeline no later than the time specified in the nomination timeline below, or such lesser period as is acceptable to Pipeline. Any nomination submitted after the Timely Nomination Cycle shall contain Customer's service requirements for one Day only and shall include the effective date and time. Intraday nominations do not replace the remainder of a standing nomination. The nomination timeline shall be Central Time on the Day prior to gas flow:

6:00 p.m.	Nomination leaves control of the nominating party
6:15 p.m.	Receipt of nomination by Pipeline through the ECS
6:30 p.m.	Quick response by Pipeline regarding validity of data elements of nominations received through the ECS at 6:15 p.m.
9:00 p.m.	Receipt of completed confirmations by Pipeline from upstream and downstream connected parties

10:00 p.m. Provide scheduled quantities to Customer, point operator and bumped parties (notice to bumped parties)

- (b) Intraday 1 Nomination Cycle. Subsequent to the Evening Nomination Cycle, as described in subsection 5.3(a), Customer may alter its nominations provided that the nomination given by Customer to Pipeline for deliveries starting at 5:00 p.m. during the current Day shall be submitted to Pipeline no later than the time specified in the nomination timeline below, or such lesser period as is acceptable to Pipeline. Any nomination submitted after the Timely Nomination Cycle shall contain Customer's service requirements for one Day only and shall include the effective date and time. Intraday nominations do not replace the remainder of a standing nomination. The nomination timeline shall be Central Time on the Day of gas flow:

10:00 a.m. Nomination leaves control of the nominating party

10:15 a.m. Receipt of nomination by Pipeline through the ECS

10:30 a.m. Quick response by Pipeline regarding validity of data elements of nominations received through the ECS at 10:15 a.m.

1:00 p.m. Receipt of completed confirmations by Pipeline from upstream and downstream connected parties

2:00 p.m. Provide scheduled quantities to Customer, point operator and bumped parties (notice to bumped parties)

- (c) Intraday 2 Nomination Cycle. Subsequent to the Intraday 1 Nomination Cycle, as described in subsection 5.3(b), Customer may alter its nominations provided that the nomination given by Customer to Pipeline for deliveries starting at 9:00 p.m. during the current Day shall be submitted to Pipeline no later than the time specified in the nomination timeline below, or such lesser period as is acceptable to Pipeline. Any nomination submitted after the Timely Nomination Cycle shall contain Customer's service requirements for one Day only and shall include the effective date and time. Intraday nominations do not replace the remainder of a standing nomination. The nomination timeline shall be Central Time on the Day of gas flow:

5:00 p.m. Nomination leaves control of the nominating party

5:15 p.m. Receipt of nomination by Pipeline through the ECS

5:30 p.m. Quick response by Pipeline regarding validity of data elements of nominations received through the ECS at

5:15 p.m.

8:00 p.m. Receipt of completed confirmations by Pipeline from upstream and downstream connected parties

9:00 p.m. Provide scheduled quantities to Customer and point operator

- (d) In addition to the nomination timelines outlined in Section 5.2 and subsections 5.3(a), (b) and (c), Pipeline may allow Customer to revise Customer's nominations at other times prior to the end of the Day being scheduled if such revisions do not affect Pipeline's ability to serve other Customers and provided such change can be confirmed in a timely manner with Customer's upstream and downstream parties. Such a change in nominations shall be processed after timely nominations have been scheduled and shall be made prospectively only.
- (e) Once all or a portion of the nomination of a Customer is accepted and scheduled for any Day, said daily scheduled service shall not be interrupted unless: (1) such capacity is required to provide a higher priority firm service nominated prior to the Intraday 2 Nomination Cycle as described in subsection 5.3(c); or (2) curtailment is necessary pursuant to the provisions of Article 8 of the GT&C.

## **6. SERVICE SCHEDULING**

- 6.1 Service is deemed scheduled after Customer submits a nomination in accordance with Article 5 of the GT&C and Pipeline confirms the nominated receipt of gas into the system and the nominated delivery of gas to Customer, or for Customer's account. Until Pipeline has informed Customer that its nomination, whether daily, or intraday, is confirmed, such gas quantities will not be deemed scheduled.
- 6.2 Quantities nominated for service pursuant to the Service Agreement shall have priority over all other quantities nominated for transportation on this Pipeline.
- 6.3 Should Customer be unable to accept the quantities of gas tendered at the Points of Delivery on any Day, then Pipeline may refuse to receive equivalent quantities of gas at the Points of Receipt on such Day. Should Customer be unable to tender quantities of gas at the Points of Receipt on any Day, then Pipeline may refuse to deliver equivalent quantities of gas at the Points of Delivery on such Day.
- 6.4 Pipeline shall have the unqualified right to commingle gas transported hereunder with gas from other sources, and to treat and handle all such gas as under its possession and control. It is recognized that gas molecules delivered by Pipeline may not be the same molecules as those received at the Points of Receipt.

## **7. INTERCONNECTING FACILITY GAS FLOW ALLOCATION METHODS**

- 7.1 For all gas to be received by Pipeline, Customers may cause the operating party of the facilities immediately upstream of a Pipeline Point of Receipt to provide a predetermined allocation methodology acceptable to Pipeline to be used in allocating said gas through the Point of Receipt.
- 7.2 In addition, for all gas to be delivered to Customers, Customers may cause the operating party of the facilities immediately downstream of a Pipeline Point of Delivery to provide a predetermined allocation methodology acceptable to Pipeline to be used in allocating said gas through the Point of Delivery.
- 7.3 Any allocation methodology shall be provided to Pipeline not less than one Business Day prior to the first Day of the Month gas is to be tendered to Pipeline and shall prescribe the methodology for all Service Agreements for which quantities have been scheduled at such Points of Receipt and Points of Delivery.
- 7.4 In the event no methodology acceptable to Pipeline is provided, Pipeline shall allocate the actual quantities received or delivered by Pipeline among Customers pro rata, based on the ratio of each scheduled quantity to the total scheduled quantities of gas at such Points of Receipt or Points of Delivery applied to the total quantity actually received or delivered by Pipeline.
- 7.5 Changes to the daily allocation methodology may be made. Such changes must be submitted and accepted by Pipeline in advance of the effective date and shall be effective prospectively. No retroactive reallocation of any transaction shall be permitted.
- 7.6 Pipeline shall not have any liability to any Customer as a result of Pipeline's reliance on any allocation methodology described herein, and Customer shall indemnify Pipeline from and against any and all losses, damages, expenses, claims, suits, actions and proceedings whatsoever threatened, incurred or initiated as a result of Pipeline's reliance on such allocation methodology.

## **8. CURTAILMENT**

- 8.1 Pipeline shall have the right to curtail or discontinue transportation services, in whole or in part, on all or a portion of its system, at any time for reasons of force majeure or when, in Pipeline's sole judgment, acting reasonably, capacity or operating conditions so require or it is desirable or necessary to make modifications, repairs or operating changes to its system. Pipeline shall provide Customer and interconnecting facilities operators such notice of the curtailment as is reasonable under the circumstances.
- 8.2 In the event that service is interrupted or curtailed, Pipeline shall reduce each Customer's scheduled service in the reverse order of that outlined for the scheduling of nominations in Article 6 of the GT&C.

- 8.3 If curtailment or interruption is caused by an event occurring at a specific Point of Receipt or Point of Delivery or lateral, quantities will be curtailed based on the utilization of that point as firm or interruptible and in the order specified above.
- 8.4 All quantities received and/or taken in violation of Pipeline's curtailment or interruption notices shall constitute unauthorized receipts or deliveries of gas to which a charge per GJ equal to the Adjusted Index Price shall be assessed in addition to any other applicable toll, charge or penalty. Such charge shall be applicable to all such unauthorized receipts and deliveries following notification of curtailment or interruption pursuant to Section 8.5 below, which may be given by telephone, confirmed by facsimile transmission or any other reasonable means.
- 8.5 Notice of Curtailment.
- (a) Notice by Pipeline. Pipeline shall provide Customer and interconnecting facilities operators with notice of curtailment or interruption at a time and in a manner that is reasonable under then existing conditions, and shall in any event confirm in writing or by facsimile transmission the notice given if originally provided telephonically.
  - (b) Notice by Customer. Customer shall have the responsibility to inform its end-users, suppliers and all others involved in the transaction, as to any curtailment or interruption.
- 8.6 Except as provided in Section 8.7 below, in the event Pipeline fails to deliver on any one Day at least 97% of the quantity of gas requested by Customer to be delivered by Pipeline at Point(s) of Delivery which Pipeline is obligated to deliver on a firm basis at such Point(s) of Delivery on such Day up to the MDTQ, or at least 100% of a Customer's nomination which Pipeline has confirmed pursuant to Article 6, the reservation charge shall be decreased by an amount equal to the reservation charge on a 100% load factor basis multiplied by the quantity of gas not delivered up to the lesser of the total quantity of gas requested and not delivered, or the MDTQ.
- 8.7 Pipeline shall not be obligated to adjust the reservation charge pursuant to Section 8.6 above, when Pipeline's failure to deliver on any one Day at least 97% of the quantity of gas requested by Customer to be delivered at Point(s) of Delivery which gas Pipeline is obligated to deliver on a firm basis at such Point(s) of Delivery on such Day up to the MDTQ:
- (a) is the result of the conduct of Customer or the downstream operator of the facilities at the Point of Delivery;
  - (b) is the result of Pipeline having operational flow orders in effect against Customer on such Day;
  - (c) is the result of Pipeline performing routine operational maintenance and repair, provided that Pipeline provides at least five (5) Days notice of such maintenance and repair;

- (d) is the result of Pipeline performing at any time repair and maintenance of its facilities to comply with applicable regulatory requirements; or
- (e) occurs during a force majeure event as contemplated by Article 23 of the GT&C and subject to the notice and due diligence requirements of Article 23 of the GT&C (Force Majeure), however, (c) and (d) are also subject to the notice and due diligence requirements of Article 23 of the GT&C (Force Majeure).

Provided that if in any Service Year, Pipeline fails to deliver, for any reason other than as set forth in (a), (b) and (d) above, an aggregate of 97% of the quantity of gas requested by Customer to be delivered at Point(s) of Delivery which gas Pipeline is obligated to deliver on a firm basis at such Point(s) of Delivery in such Service Year ("**Shortfall Quantity**"), the reservation charge shall be decreased by an amount equal to the reservation charge on a 100% load factor basis multiplied by the Shortfall Quantity.

- 8.8 If in any Service Year, Pipeline fails to deliver, for any reason, the quantity of gas requested by Customer to be delivered at Point(s) of Delivery which gas Pipeline is obligated to deliver on a firm basis at such Point(s) of Delivery, and Pipeline has not decreased Customer's reservation charge with respect to such quantities pursuant to Section 8.6, then Pipeline shall use all reasonable efforts to provide Customer with an equivalent amount of transportation service ("**Make-Up Service**") during the period ending in the Service Year following the Service Year in which the failure to deliver occurred. Pipeline shall not charge any reservation charge for such Make-Up Service.
- 8.9 Customer shall indemnify Pipeline against and hold Pipeline harmless from any and all damages, claims, suits, actions or proceedings whatsoever threatened or initiated as a result of any curtailment or interruption invoked by Pipeline; which shall include any curtailment or interruptions described in any part of Article 8; except if such damages, claims, suits, actions or proceedings are due to Pipeline's gross negligence, undue discrimination or willful misconduct.

## 9. ASSIGNMENTS

- 9.1 Assignments. A Customer ("**Assignor**") may voluntarily assign all or a portion of its firm service rights on a temporary or permanent basis to a replacement customer ("**Assignee**") pursuant to the provisions of this Article 9 of the GT&C.
- 9.2 Use of ECS to Facilitate Customer Assignments. Pipeline will make its ECS available to Assignors seeking to locate Assignees. Assignors may post the availability of their capacity along with any specific conditions relating thereto on the ECS. Any parties interested in such capacity would be required to contact the Assignor directly.
- 9.3 Temporary Assignments. An Assignor may assign all or a portion of its contracted capacity and associated contractual rights (excluding any contract termination rights) (the "**Assigned Service**") to an Assignee on a temporary basis without prior approval from Pipeline. At the end of the assigned term, the Assigned Service shall revert back to the Assignor. Upon receipt of an executed temporary assignment agreement between the Assignor and the Assignee, Pipeline will treat the Assignee as a Customer with a service

entitlement equal to the assigned capacity during the term of the assignment and Pipeline will invoice the Assignee directly. The Assignor shall not be released from its obligations to Pipeline with respect to the Assigned Service and shall be responsible for such obligations in the event the Assignee defaults. Pipeline shall notify the Assignor in the event the Assignee fails to pay part or all of the amount of any invoice for service provided when such amount is due in accordance with Article 15 of the GT&C.

- 9.4 Permanent Assignments. An Assignor may assign all or a portion of its contracted capacity and associated contractual rights to an Assignee on a permanent basis. Upon Pipeline entering into a permanent assignment agreement with the Assignor and Assignee, Pipeline will treat the Assignee as a Customer with a service entitlement equal to the assigned capacity for the remaining term of the agreement and Pipeline will invoice the Assignee directly. In the event there is a permanent assignment of Customer's capacity, Pipeline will agree to discharge the Assignor of liability, on a prospective basis, for the portion of the capacity assigned, provided: (i) the Assignee meets or exceeds the initial creditworthiness test met by the Assignor; or (ii) Pipeline and Pipeline's lenders agree to such discharge.

## **10. OPERATIONAL FLOW ORDERS**

- 10.1 Pipeline reserves and will have the right to issue operational flow orders when, in Pipeline's sole judgment, acting reasonably, such action is required to preserve the integrity of Pipeline's system, to ensure adequate operating pressures, to have adequate supplies in the system, to assure adequate Company Used Gas, to maintain firm services and to optimize the operation of the system. Pipeline shall not impose an operational flow order primarily for the purpose of relieving Pipeline of its obligations to make any reservation charge credit adjustment. To the extent possible, Pipeline will identify discrete Customer(s) whose action(s) require Pipeline to issue an operational flow order(s) and Pipeline will limit the applicability of operational flow order(s) to such Customer(s). Notwithstanding the foregoing, if Pipeline is unable to identify discrete Customer(s) whose action(s) require issuance of an operational flow order, operational flow order(s) will be issued as necessary to resolve the operational problem.
- 10.2 If Pipeline is required to issue an operational flow order, Pipeline will post a notice of such operational flow order on the system with a description of the necessity of such order, the Customer(s) to which the order is directed, and the anticipated duration of such order. To the extent discrete Customer(s) are not identified in any notice of an operational flow order, such order will be applicable to all Customers. To the extent feasible under the circumstances, Pipeline will post any notice of an operational flow order on the ECS at least 24 hours prior to such order becoming effective. Pipeline will post a notice on the ECS informing Customer(s) when any operational flow order in effect will be cancelled.
- 10.3 To the extent Pipeline issues an operational flow order and Customer(s) does not comply with such order, Pipeline will assess and Customer will be obligated to pay Pipeline a fee per GJ equal to the Adjusted Index Price for failure to comply with such order. Such fee will be assessed on each GJ of gas received into or delivered out of Pipeline's system

when such receipts and/or deliveries are not in compliance with any operational flow order in effect.

## 11. BALANCING

11.1 Imbalance Resolution Procedures. Customer shall have the responsibility to maintain as nearly as practicable an equal balance between quantities of gas received at the Point(s) of Receipt, adjusted for appropriate Fuel Retainage Quantity, and quantities of gas delivered each Month. If Customer does not maintain an equal balance between quantities of gas received at the Point(s) of Receipt, adjusted for appropriate Fuel Retainage Quantity, and quantities of gas delivered, the resulting contract imbalance will be handled in accordance with the provisions of this Section 11 to eliminate contract imbalances accumulated during the Month and to provide added incentives to Customer to comply with its monthly balancing responsibilities.

(a) Contract Imbalance

(1) Service Agreements. A contract imbalance for a Service Agreement shall be the difference between actual quantities of gas received at the Point(s) of Receipt less appropriate Fuel Retainage Quantity, and actual quantities of gas delivered during the Month under the Service Agreement. To the extent Customer is utilizing service provided at a meter subject to an OBA, Customer's confirmed nomination quantities at that meter will be used as the actual quantity for purposes of calculating the imbalance level in accordance with Section 11.1(b) below.

(2) OBAs. The contract imbalance for an OBA Party shall be subject to resolution pursuant to the applicable terms and conditions of the OBA, but would generally be based on the difference between total actual quantities of gas received or delivered through the affected meter and the total aggregated confirmed nomination quantities for that meter, which shall be used as the actual quantities of gas received or delivered for purposes of Section 11.1(b) below.

(b) Imbalance Level. The imbalance level shall be the absolute value of the lesser of the operational monthly contract imbalance or the actual monthly contract imbalance, after minimizing the imbalance in accordance with the Imbalance Netting provisions contained in Section 11.2 herein, divided by scheduled monthly receipts. Operating data and actual data will be accessible via the ECS or other mutually agreeable form of communication.

(c) Resolution of Imbalances: A Cash-out Party will resolve any imbalance(s) pursuant to Sections 11.2 and 11.3 herein, except to the extent that the imbalance(s) may be resolved under an effective OBA. In that circumstance, Pipeline shall first seek to resolve the imbalance(s) in accordance with the applicable provisions of the OBA.



## 11.2 Imbalance Netting

For purposes of determining the imbalance level that will be subject to resolution pursuant to Section 11.3 below, all imbalances due Cash-out Party under all of Cash-out Party's contracts for a Month and all imbalances due Pipeline under all of Cash-out Party's contracts for the same Month shall be summed together to yield a single imbalance for that the Month, unless otherwise requested in writing by Cash-out Party.

## 11.3 Cash-out Provision

Prior to, or with the monthly transportation invoice, Pipeline will render each Cash-out Party a statement detailing the unresolved imbalances. In the second Month after the imbalances occurred, a bill for the amount due Pipeline or a credit of the amount due Cash-out Party, as determined below, will be rendered with the monthly transportation invoice pursuant to Section 15.1 of these General Terms and Conditions.

- (a) Imbalance Due Pipeline. For contract imbalances, after minimization in accordance with the Imbalance Netting provisions in Section 11.2 herein, where actual deliveries exceed actual receipts at the Point(s) of Receipt less Fuel Retainage Quantity, Cash-out Party shall pay Pipeline based on the accumulated sum of the results of the formulas listed below:

<u>Imbalance Level</u>	<u>Factor</u>	<u>Results</u>
0% - <5%	1.00	(price x quantity <5%)
>5% - <10%	1.10	(price x quantity >5% & <10%)
>10% - <15%	1.20	(price x quantity >10% & <15%)
>15% - <20%	1.30	(price x quantity >15% & <20%)
>20% - <25%	1.40	(price x quantity >20% & <25%)
>25%	1.50	(price x quantity >25%)

The amount due Pipeline for each imbalance level shall be payable in U.S. Dollars and determined by multiplying the corresponding imbalance level factor by the Index Price, as determined in Section 11.3(c) herein, for the Month in which the contract imbalance was incurred, times the quantity within each imbalance level. The calculation of cash out charges relating to excess deliveries shall also include a transportation imbalance charge, which shall be calculated by multiplying the excess delivery quantity by the sum of the actual weighted average Usage Charge LLC incurred and any applicable unit charge for transportation specified in the then-current Toll Sheets owed on all quantities of gas delivered during the Month to that Cash-out Party.

- (b) Imbalance Due Cash-out Party. For contract imbalances, after minimization in accordance with the Imbalance Netting provisions in Section 11.3 herein, where actual receipts at the Point(s) of Receipt less Fuel Retainage Quantity exceed actual deliveries, Pipeline shall purchase from Cash-out Party such excess

receipts. Pipeline shall pay Cash-out Party based on the accumulated sum of the results of the formulas listed below:

<u>Imbalance Level</u>	<u>Factor</u>	<u>Results</u>
0% - <5%	1.00	(price x quantity <5%)
>5% - <10%	.90	(price x quantity >5% & <10%)
>10% - <15%	.80	(price x quantity >10% & <15%)
>15% - <20%	.70	(price x quantity >15% & <20%)
>20% - <25%	.60	(price x quantity >20% & <25%)
>25%	.50	(price x quantity >25%)

The amount due Cash-out Party for each imbalance level shall be payable in U.S. Dollars and determined by multiplying the corresponding imbalance level factor by the Index Price, as determined in Section 11.3(c) herein, for the Month in which the contract imbalance was incurred times the quantity within each imbalance level. The calculation of the amount due Cash-out Party relating to excess quantities shall also include a transportation imbalance credit, which shall be calculated by multiplying the excess quantities by the sum of the actual weighted average Usage Charge LLC incurred and any applicable unit charge for transportation specified in the then-current Toll Sheets owed on all quantities of gas delivered during the Month to that Cash-out Party. Pipeline shall have no responsibility for the distribution of funds beyond the initial distribution to the Cash-out Party.

- (c) Index Price. The Index Price for purposes of resolving imbalances shall be determined by calculating the arithmetical average of Platts Gas Daily "Daily Price Survey" Midpoint prices for "Dracut, Mass." as such prices are posted for the applicable Month less the Usage Charge LLC incurred and any applicable unit charge for transportation specified in the then-current Toll Sheets and less the average monthly fuel cost. The average monthly fuel cost shall be calculated by multiplying (1) the monthly average of Platts Gas Daily "Daily Price Survey" Midpoint price for "Dracut, Mass." as such prices are posted for the applicable Month less the Usage Charge LLC incurred and any applicable unit charge for transportation specified in the then-current Toll Sheets by (2) the applicable monthly Fuel Retainage Percentage. In the event that this index price is no longer available, Pipeline will change its Tariff and may, at its discretion, select an appropriate price for the interim period, subject to refund.

11.4 Fuel Retainage Percentage. In determining any adjustments to the Fuel Retainage Percentage under Section 20.3, Pipeline shall take into account the net proceeds from the operation of the imbalance resolution procedures contained in this Section 11.

#### 11.5 Operational Balancing Agreements ("OBA")

- (a) For the purpose of minimizing operational conflicts between various pipeline facilities with respect to the delivery of gas to and from Pipeline's facilities, Pipeline may enter into OBAs with OBA Parties. Such OBA shall specify the

Gas Custody transfer procedures to be followed by Pipeline and OBA Party for the confirmation of scheduled quantities of gas to be received by Pipeline at the Point of Receipt or delivered by Pipeline at the Point of Delivery and shall further establish all procedures for resolution of any imbalances (including cash-out or in-kind resolution) between Pipeline and OBA Party.

To facilitate such determination of variances on a timely basis, Pipeline and the OBA Party will agree in the OBA on necessary measurement and accounting procedures. Pipeline shall post on the ECS those Points of Receipt and Points of Delivery at which an OBA is in effect.

- (b) Pipeline shall have no obligation to negotiate and execute OBAs with any prospective OBA Party that:
  - (1) is not creditworthy as determined pursuant to a Service Agreement or the GT&C; for purposes of such provision, references to Customer shall refer to the prospective OBA Party; or
  - (2) does not maintain dispatching operations which are staffed on a continuous around-the-clock basis every day of the year; or
  - (3) would cause the level of regulation, to which Pipeline is subject prior to the execution of the applicable OBA, to increase; or
  - (4) does not commit to timely determination of variances based on reasonable available measurement technology; or
  - (5) has not demonstrated operational consistency commensurate with the OBA relationship over a minimum period of three years.
- (c) Nothing in this Section 11.5 or any executed OBA shall limit Pipeline's rights to take action as may be required to adjust receipts and deliveries under any Service Agreement to reflect actual experience or to alleviate conditions which threaten the integrity of Pipeline's system, including maintenance of service to higher priority Customers and/or services.
- (d) When Pipeline enters into an OBA with a regulated interprovincial, intra-provincial, interstate or intrastate pipeline, Pipeline may waive the daily scheduling provisions in Sections 5 and 6, herein, to maintain operational flexibility and integrity.

## 12. QUALITY OF GAS

The provisions set forth in this Article 12 shall apply to all gas received or delivered by Pipeline, except as expressly set forth herein to the contrary.

- 12.1 Natural or Artificial Gas. The gas received or delivered by Pipeline hereunder shall be a combustible gas consisting wholly of, or a mixture of:

- (a) Natural gas of the quality that meets Pipeline specifications.
- (b) Gas generated by vaporization of liquefied natural gas.
- (c) Manufactured, reformed, or mixed gas consisting essentially of hydrocarbons of the quality and character produced by nature in the petroleum, oil and gas fields with physical properties such that when the artificial pipeline gas is commingled with natural gas, the resulting mixture is indistinguishable from natural gas complying with specifications under the GT&C.

## 12.2 Total Heating Value.

- (a) No gas received or delivered hereunder shall have a Total Heating Value below 36 MJ/m<sup>3</sup> or above 41 MJ/m<sup>3</sup>.
- (b) No gas delivered hereunder shall have a Wobbe Number at the Point of Receipt below 48.75 or more than 51.94 (calculated using Total Heating Value (“THV”), as defined in section 1.51, based on the following mathematical definition and in accordance with Section 14 of these GT&C:

$$\text{THV} / \text{Sqrt SG}_{\text{gas}}$$

Where:

THV = Total Heating Value (MJ/m<sup>3</sup>)

SG<sub>gas</sub> = Specific Gravity

Sqrt = Square root of.

- (c) The Total Heating Value shall be determined by gas chromatographic analysis using most recent AGA standards or any revision thereof, or by other methods mutually agreed upon by Customer and Pipeline.

## 12.3 Composition.

- (a) Merchantability. The gas shall be commercially free, under continuous gas flow conditions, from objectionable odors (except those required by applicable regulations), solid matter, dust, gums, and gum-forming constituents, or any other substance which might interfere with its merchantability or cause injury to or interference with proper operations of the pipelines, compressor stations, meters, regulators or other appliances through which it flows.
- (b) Oxygen. The gas shall not have an uncombined oxygen content in excess of two-tenths (0.2) of one percent (1%) by volume, and both parties shall make every reasonable effort to keep the gas free from oxygen.

- (c) Non-Hydrocarbon Gases. The gas shall not contain more than four percent (4%) by volume, of a combined total of non-hydrocarbon gases (including carbon dioxide and nitrogen); it being understood, however, that the total carbon dioxide content shall not exceed three percent (3%) by volume.
- (d) Liquids. The gas shall be free of water and hydrocarbons in liquid form at the temperature and pressure at which the gas is received and delivered.
- (e) Hydrogen Sulfide. The gas shall not contain more than six (6) milligrams of hydrogen sulphide per one (1) Cubic Metre.
- (f) Total Sulphur. The gas shall not contain more than four-hundred and sixty (460) milligrams of total sulphur, excluding any mercaptan sulphur, per one (1) Cubic Metre.
- (g) Temperature. The gas shall not have a temperature of more than forty-nine degrees (49°) Celsius or less than minus five degrees (-5°) Celsius.
- (h) Water Vapor. The gas shall not contain in excess of eighty (80) milligrams of water vapor per one (1) Cubic Metre.
- (i) Liquefiable Hydrocarbons. The gas shall not contain liquid hydrocarbons or hydrocarbons liquefiable at temperatures warmer than minus nine degrees (-9°) Celsius and normal pipeline operating pressures of between 690 and 9930 kPag.
- (j) Microbiological Agents. The gas shall not contain any microbiological organism, active bacteria or bacterial agent capable of contributing to or causing corrosion and/or operational and/or other problems.

Microbiological organisms, bacteria or bacterial agents include, but are not limited to, sulfate reducing bacteria (SRB) and acid producing bacteria (APB). Tests for bacteria or bacterial agents shall be conducted on samples taken from the meter run or the appurtenant piping using American Petroleum Institute (API) test method API-RP38 or any other test method acceptable to Pipeline and Customer which is currently available or may become available at any time.

- 12.4 If the gas tendered for Customer's account to Pipeline shall fail at any time to conform to any of the specifications set forth in this Article 12 or in Pipeline's reasonable judgment, may cause harm to its facilities or diminish the quality of gas in the system, then Pipeline shall have the right, after either written, oral or telephonic notice to Customer, to refuse to accept all or any portion of such quality deficient gas. In the event Pipeline refuses to accept gas tendered by Customer because such gas does not conform to the specifications set forth herein, Customer shall not be relieved of its obligation to pay any reservation charge provided for in Customer's Service Agreement. If the gas tendered by Pipeline for Customer's account shall fail at any time to conform to any of the specifications set forth in this Article 12 then Customer shall notify Pipeline of such deficiency and may, at its option, refuse to accept delivery pending correction by Pipeline.

- 12.5 Should Customer choose not to process or cause to be processed any gas which fails to conform to any of the specifications set forth in this Article 12, Pipeline, at any time and from time to time, shall have the right, either by written, oral or telephonic notice to Customer, to arrange for any necessary processing of Customer's quality deficient gas tendered to Pipeline to ensure such gas meets the minimum quality specifications set forth in this Article 12. Upon Customer's request, Pipeline shall also attempt to contact Customer's gas supplier to determine what steps the supplier may take to make the gas conform to any of the specifications set forth in this Article 12. Pipeline shall bill the applicable Customer and such Customer shall pay Pipeline for all costs (including shrinkage and administrative costs) incurred by Pipeline relating to the processing of the Customer's gas as necessary to ensure that Pipeline fully recovers such costs and applicable carrying charges.
- 12.6 Pipeline shall have the unqualified right to commingle gas transported hereunder with gas from other sources. It is recognized that gas delivered may not be the same molecules as those received at the Point of Receipt and may exclude constituents lost as a result of normal pipeline operations. Customer may elect to process its gas for the purpose of removing any of its constituent parts, and ownership in such constituent parts shall vest in Customer, provided that such action does not result in the gas failing to conform to any of the specifications set forth in this Article 12 and such action does not adversely impact Pipeline's facilities or operations. For any period for which Customer elects to process its gas, Customer or other applicable party shall be obligated to perform and pay for such processing for all relevant gas quantities during such period. The quantities of gas delivered hereunder at the Point(s) of Delivery shall be thermally equivalent to the quantities of gas received at the Point(s) of Receipt for transportation less applicable Fuel Retainage Quantities and, if applicable, any reduction due to processing.
- 12.7 Pipeline and Customer may agree, or governmental authorities may require, that the gas be odorized by use of a malodorant agent of such character as to indicate by a distinctive odor the presence of gas. Whenever odorized gas is delivered, the quality and specifications, as set forth in this Article 12 of such gas shall be determined prior to the addition of malodorant or with proper allowance for changes or additions due to such malodorant. Such odorization of the gas by the Pipeline, unless otherwise mutually agreed by Customer and Pipeline, shall be for the purpose of detection of the gas only during the time, prior to delivery to the Customer, when in possession of the Pipeline. Pipeline and Customer may agree from time to time, to allow Customer to deliver odorized gas to Pipeline. Pipeline shall not be obligated to receive such odorized gas from Customer when such receipt may, in Pipeline's sole discretion, be detrimental to Pipeline's system operations.

### **13. PRESSURE**

- 13.1 Receipt Pressure Obligations. Customer shall deliver gas or cause gas to be delivered to Pipeline for Customer's account at the Point(s) of Receipt at the pressure conditions specified in the effective Service Agreement; provided, that Pipeline shall not be obligated to reduce the pressures in its facilities at such Point of Receipt(s) below the

pressures which it determines, in its sole judgment, are required from time to time for the operation of its facilities.

- 13.2 Delivery Pressure Obligations. Pipeline shall deliver gas hereunder for Customer's account at the Point(s) of Delivery at the pressure conditions specified in the effective Service Agreement. Pipeline shall not be obligated to deliver gas at any time at a pressure in excess of the maximum allowable operating pressure for Pipeline's facilities at such Point(s) of Delivery. In addition, Pipeline and Customer may specify in the executed Service Agreement a minimum delivery pressure obligation at any Point(s) of Delivery, and Pipeline shall not be obligated to reduce the pressures in its facilities at such Point(s) of Delivery below such minimum delivery pressure obligation.
- 13.3 In no event shall Pipeline be responsible for over-pressure protection on Customer(s) facilities.

#### **14. MEASUREMENT & MEASUREMENT EQUIPMENT**

- 14.1 Determination of Quantity. For all purposes under this Tariff, quantities at the Point of Receipt shall equal the actual quantities received, less Fuel Retainage Quantities determined pursuant to the Tariff. Where Customer is taking gas for delivery to Maritimes & Northeast Pipeline, L.L.C. or other downstream pipeline and there are no measurement facilities at the Point of Delivery, quantities at that Point of Delivery shall equal actual quantities delivered to Customer off of Maritimes & Northeast Pipeline, L.L.C. or other downstream pipeline, plus Fuel Retainage Quantities determined pursuant to the tariff of Maritimes & Northeast Pipeline, L.L.C. or other downstream pipeline. The quantity of gas received and delivered by Pipeline for Customer's account hereunder shall be measured according to Boyle's and Charles' Laws for the measurement of gas under varying pressures and temperatures with deviations therefrom as provided in Section 14.9 below and shall be determined as follows:
- (a) The unit of measurement for the purpose of service under any of Pipeline's Toll Schedules shall be one (1) GJ. The number of GJ's delivered shall be determined by multiplying the number of Cubic Metres of gas received or delivered, measured on the measurement basis hereinafter specified, by the Total Heating Value of such gas, in MJ/m<sup>3</sup>, as defined in Article 1 of the GT&C, and by dividing the product by 1 million (1,000,000).
  - (b) The unit of quantity for the purpose of measurement shall be one (1) Cubic Metre of gas at a temperature of sixty (60) degrees Fahrenheit (or fifteen point six (15.6) degrees Celsius) and an absolute pressure of one hundred one and three hundred twenty-five thousandths kiloPascals (101.325 kPa).
  - (c) The unit of weight for the purpose of measurement shall be one (1) kilogram mass of gas.
  - (d) The average absolute atmospheric pressure shall be assumed to be 99 kiloPascals.

- (e) The temperature of the gas passing through the meters shall be determined by the use of electronic transducers, recording thermometer or other temperature measuring devices. The instantaneous measurement from the electronic measurement equipment or the arithmetic average of the temperature recorded each Day shall be used in computing gas quantities.
- (f) The specific gravity of the gas flowing through the meters shall be determined by gas chromatographic analysis, recording gravitometer, or continuous or spot sampling methods, unless otherwise mutually agreed upon by Customer and Pipeline. The arithmetic average of the specific gravity recorded during each 24-hour Day shall be used in computing gas quantities or other periodic measurements within a shorter time frame or instantaneous specific gravity measurements may be applied to metering instruments to provide the quantity computation.
- (g) When orifice meters are used, the computation of quantities of gas delivered shall be in accordance with the recommendations as published by the American Gas Association's Report No. 3, Revised - 1994, (ANSI/API 2530), and any subsequent amendments thereof as may be mutually agreed upon by Customer and Pipeline.
- (h) The Total Heating Value shall be measured, unless otherwise agreed by the parties concerned, by methods in accordance with acceptable industry practice, such as, but not limited to, recording calorimeter(s) or gas chromatograph(s) located at appropriate points. The arithmetic average of the heating value recorded each 24-hour Day and as adjusted to conditions as specified in Article 1 of the GT&C, or other periodic measurements within a shorter time frame as Pipeline shall select, shall be used for computations.
- (i) The deviation of the gas delivered hereunder from Boyle's and Charles' Laws shall be determined in accordance with, but not limited to, the published recommendations of the American Gas Association's Report No. 3, Revised - 1994 and the American National Standards Institute as Pipeline deems to be in accordance with generally accepted industry practice.

14.2 Measurement Operations and Equipment. Measurement operations ("**Measurement Operations**") shall include, but not be limited to, the operation, calibration and testing of the RTU, transducers, chart recorders, meter runs, gas quality monitoring devices, control valves and responsibility for quantity calculations for the measurement facility. Pipeline may allow Customer or third parties the right to perform Measurement Operations, provided that such Customer or third party furnishes to Pipeline all data required for flow computation and can meet Pipeline's measurement and operating standards; and provided, further, such Customer or third party which performs such Measurement Operations shall be responsible for any and all associated costs of such Measurement Operations unless otherwise agreed by Pipeline and Customer or third party. Measurement equipment shall consist of the necessary metering devices, designed and installed in accordance with the current published recommendations of the American Gas Association or as mutually



agreed upon by Customer and Pipeline, measurement equipment shall be installed, operated and maintained at or on each interconnection of Pipeline's facility with facilities of third parties; provided, however, Pipeline shall have the right to require and may install or cause to be installed electronic gas measurement and control equipment at all points.

- (a) Where orifice measurement equipment is to be used, it shall utilize "**Flange Tap Connections**" and the static pressure shall be measured at the down-stream flange tap connection.
- (b) An electronic temperature transducer, a recording thermometer or other mutually acceptable device shall be installed at the measuring station to measure the flowing gas temperature.

14.3 Access to Equipment and Records. Each party shall have the right to be present at the time of any installing, reading, cleaning, changing, repairing, inspecting, testing, calibrating or adjusting done in connection with the other's equipment used in measuring receipts and deliveries hereunder. The records from such measurement equipment shall remain the property of their owner, but upon request each will submit to the other its records and charts, together with calculations therefrom, for inspection and verification, subject to return within thirty (30) Days after receipt thereof.

14.4 Pressure Protection. Pressure regulation, pressure override and pressure relief valve or other pressure limiting devices installed and operated by Pipeline at the measuring station or at or near each interconnection of Pipeline's facilities with facilities of third parties shall only be for the purpose of operation and protection of Pipeline's measurement equipment and Pipeline's facilities.

14.5 Test of Meters. The accuracy of Pipeline's and Customer's measurement equipment shall be verified by Pipeline and Customer at reasonable intervals and, if requested, in the presence of representatives of Pipeline and Customer.

- (a) Pipeline and Customer shall not be required to verify the accuracy of orifice meter equipment more frequently than once in any thirty (30) Day period.
- (b) Pipeline and Customer shall not be required to verify the accuracy of measurement equipment, other than orifice meter equipment, more frequently than once in any ninety (90) Day period.
- (c) Pipeline and Customer shall not be required to verify the accuracy of the gas chromatograph or other heating value measurement device more frequently than once in any thirty (30) Day period.
- (d) Any errors or discrepancies found when testing shall be corrected immediately whenever possible or as soon thereafter as procurement of repair parts, materials and tools can be arranged.

14.6 Measurement Equipment Inaccuracy and Failure. The quantity of gas received and delivered by Pipeline and delivered to Customer or for Customer's account hereunder during periods when the measurement equipment is out of service or registering inaccurately shall be estimated as follows:

- (a) If, upon test, any measurement equipment, the readings of which are used in the registration, integration or computation of quantities of gas hereunder, is found to be in error to the extent that it introduces not more than one percent (1%) measurement error in the individual measurement equipment affected, previous records of such equipment shall be considered accurate;
- (b) If, upon test, any such above measurement equipment is found to be in error, to the extent that it causes the registered or computed quantities of the instrument(s) so affected to be in error, by an amount exceeding one percent (1%) at a recording corresponding to the average hourly rate of flow through the instrument(s) in the period since the last preceding test, then any registrations, integration or computed quantities of such instrument(s) affected shall be corrected to zero (0) error for any part of the period since the last test in which such error is known to have existed or which may be agreed upon by representatives of the parties. In case the period of such error is not known definitely or agreed upon, such correction shall be for a period of one-half (1/2) of the elapsed time since the date of the last test, but not exceeding a correction period of sixteen (16) Days where orifice measurement equipment is used in the computation of quantity and not exceeding forty-five (45) Days where other measurement equipment is used; and
- (c) If no tests have been performed to determine the degree of inaccuracy, or measurement equipment is out of service, the quantity of gas shall be estimated:
  - (1) By using the registration of any existing and agreed upon check equipment considered by parties concerned to be registering accurately, or in the absence of such facilities,
  - (2) By correcting the error, if the quantity or percentage of error is ascertainable by calibration, test, or mathematical calculation, or if neither of the two foregoing procedures are applicable,
  - (3) By relating the quantity of receipt or delivery to receipts or deliveries during periods under similar conditions when the measurement equipment was deemed to have been registering accurately.

14.7 Preservation of Records. Each party shall preserve for a period of at least two (2) years all test data, charts and other similar records or such longer period as may be required by the NEB.

14.8 Flow Control. The Pipeline shall control flow of gas into and out of its facilities at all measurement facilities, but may allow the following if all of Pipeline's operating standards and requirements are met: (a) Pipeline may allow third parties to control flow into the Pipeline's facilities, and (b) Pipeline may allow third parties to control flow out

of the Pipeline's facilities, but reserves the right to override the third party's flow control equipment.

#### 14.9 Maintenance.

- (a) Major maintenance ("**Major Maintenance**") shall include, but not be limited to, the repair or replacement of major components and equipment required to support the Measurement Operations. For measurement facilities which Customer or third party owns and for which Pipeline performs Measurement Operations, such Customer or third party shall be responsible for any and all associated costs of such Major Maintenance unless otherwise agreed by Pipeline and Customer or third party.
- (b) Routine maintenance ("**Routine Maintenance**") shall be the normal Day to Day maintenance required to support the Measurement Operations or necessary to upkeep the measurement facility and shall include, but not be limited to, replacement of minor replacement parts for instrumentation, measurement equipment (including the RTU) and minor valves and piping. The entity (Pipeline, Customer or third party) which performs the Measurement Operations for the measurement facility shall also be responsible for such Routine Maintenance and any and all associated costs of such Routine Maintenance unless otherwise agreed by Pipeline and Customer or third party.

### 15. INVOICES AND PAYMENTS

- 15.1 Pipeline shall bill Customer on or before the 10th Day of each Month for all charges and costs incurred hereunder during the preceding Month according to the measurement, computations and charges provided in this Tariff. If actual quantities are unavailable in time to prepare the billing, such charges shall be based on estimated quantities and Pipeline shall provide, in the succeeding Month's billing, an adjustment based on any difference between actual quantities and estimated quantities.
- 15.2 The invoice submitted pursuant to Section 15.1 shall be paid by Customer so that Pipeline will receive the funds no later than ten (10) Days from the date of the invoice, except when such Day is a Saturday, Sunday or bank holiday applicable to the bank to which the payment is being remitted, in which case payment is due the following Business Day (hereinafter called "**Due Date**"). All payments shall be by Electronic Funds Transfer to a bank account designated by Pipeline, or by mutual agreement, made in immediately available funds payable to Pipeline. If Customer pays by cheque, payment shall be considered to have been made one Business Day after the date of receipt of such cheque at the address specified on the invoice. If Customer pays by Electronic Funds Transfer, payment shall be considered to have been made on the date when such payment is transferred by Customer to a bank account designated by Pipeline. All payments shall be identified by invoice number(s) and if payment differs from the invoiced amount, remittance detail shall be provided with payment.

- 15.3 Should Customer fail to pay part or all of the amount of any invoice for service provided when such amount is due, Pipeline may charge interest on the unpaid portion of the invoice computed from such Due Date until the date of payment at the prime rate of interest of the Canadian Imperial Bank of Commerce. If such failure to pay continues for ten (10) Days after payment is due, Pipeline shall notify Customer of the delinquency. In the event payment is not received within twenty (20) Days of the first delinquency notice, Pipeline will provide a second delinquency notice requesting payment within five Business Days. Should Customer's delinquency continue, Pipeline will provide Customer with a third and final notice stating that if payment is not received within five Business Days, then Pipeline, in addition to any other remedy it may have, may suspend further receipt and delivery of Customer's gas until such amount is paid or terminate Customer's Service Agreement. In the event of such termination of the Service Agreement, Pipeline shall serve Customer with written notice of the termination.
- 15.4 If Customer in good faith shall dispute in writing the amount of any such invoice or parts thereof and shall pay to Pipeline such amounts as it concedes to be correct, and at any time thereafter within thirty (30) Days of demand made by Pipeline shall furnish a good and sufficient surety bond guaranteeing payment to Pipeline of the disputed amount pending a final determination with respect thereto, which may be reached either by agreement or judgment of the courts as may be the case, then Pipeline shall not be entitled to suspend further service unless and until default be made in the conditions of such bond. If resolution of the dispute is in favour of Customer and Customer furnished a surety bond instead of paying the disputed amount, then Pipeline shall reimburse Customer for the cost of securing that surety bond. No payment by Customer of the amount of a disputed invoice shall prejudice the right of Customer to claim an adjustment of the disputed invoice, subject to Section 15.5 herein.
- 15.5 In the event an error is discovered in the amount billed in any invoice rendered by Pipeline, such error shall be corrected within thirty (30) Days of the determination thereof, provided that claim therefor shall have been made in writing within twelve (12) Months. No errors in billing will be corrected if a claim therefor has not been made in writing within twelve (12) Months of the date of the applicable invoice.
- 15.6 Customer is responsible for customs, duty, taxes, and any other charges associated with the import of gas into or export of gas out of Canada.
- 15.7 Refunds due Customer pursuant to the terms of this Tariff or orders of the NEB shall be paid by Electronic Funds Transfer to a bank account established by Customer if:
- (a) Customer has transmitted payment for services to Pipeline by Electronic Funds Transfer within the twelve (12) Month period preceding the date of the refunds; and
  - (b) Customer has designated in writing a bank account for the receipt of Electronic Funds Transfers at least thirty (30) Days prior to the date established for refunds.

Refunds not paid by Electronic Funds Transfer or credit adjustment shall be paid by cheque.

- 15.8 Both Pipeline and Customer shall have the right to examine on reasonable notice and at any reasonable time the books, records and charts of the other to the extent necessary to verify the accuracy of any invoice or claim rendered hereunder.
- 15.9 All amounts payable by Customer to Pipeline, for services rendered or any other amounts, are to be remitted to Pipeline in the legal currency of Canada, unless otherwise mutually agreed to between the parties.
- 15.10 Pipeline may designate an agent for the purpose of scheduling, allocating, invoicing and/or payment. In the event an agent is designated, the agent will comply with all applicable scheduling, allocation, invoicing, and/or payment terms set forth in this Tariff.

## **16. TERMINATION FOR DEFAULT**

- 16.1 If either Pipeline or Customer shall fail to perform any of the covenants or obligations imposed upon it or them under and by virtue of a Service Agreement hereunder, then in such event the other party may at its option terminate such agreement by proceeding as follows: The party not in default shall cause a written notice to be served on the party in default stating specifically the cause for terminating the agreement and declaring it to be the intention of the party giving the notice to terminate the same; thereupon the party in default shall have thirty (30) Days after the service of the aforesaid notice in which to remedy or remove the cause or causes stated in the notice for terminating the agreement, and if within said period of thirty (30) Days the party in default does so remove and remedy said cause or causes and fully indemnify the party not in default for any and all consequences of such breach, by a good and sufficient bond or otherwise, then such notice shall be withdrawn and the agreement shall continue in full force and effect. In case the party in default does not so remedy and remove the cause or causes or does not so indemnify the party giving the notice for any and all consequences of such breach, within said period of thirty (30) Days, then, after any necessary authorization by regulatory bodies having jurisdiction, the agreement shall become null and void from and after the expiration of said period, provided that notice of termination has not been withdrawn prior thereto. Any cancellation of such agreement pursuant to the provision of this paragraph shall be without prejudice to the right of Pipeline to collect any amounts then due to it for service prior to the time of cancellation and shall be without prejudice to the right of Customer to receive any service for which it has paid but has not received, although entitled thereto, prior to the time of cancellation, and without waiver of any remedy to which the party not in default may be entitled for violations of such agreement. Failure to perform an act that is excused due to, inter alia, force majeure does not constitute an event of default hereunder.
- 16.2 Prior to a termination for default, Pipeline may suspend service to any Customer who fails to comply with the GT&C, the applicable Toll Schedule or Customer's Service Agreement. Pipeline's failure to invoke its right to terminate an agreement for default shall not be construed as a waiver of Pipeline's right to terminate service during any other

period when Customer is in violation of the terms of this Tariff or of Customer's Service Agreement.

**17. [Left Blank Intentionally.]**

**18. POSSESSION OF GAS**

18.1 Control. Pipeline shall be deemed to be in control and possession of the gas hereunder upon receipt of such gas until it shall have been delivered for Customer's account, and Customer shall be deemed to be in control and possession of such gas prior to such receipt by Pipeline and after such delivery for Customer's account.

18.2 Responsibility. Pipeline shall have no responsibility with respect to the gas or on account of anything done, occurring or arising with respect to the gas before receipt of such gas by Pipeline or after delivery of the gas for Customer's account, and Customer shall have no responsibility with respect to the gas or on account of anything done, occurring or arising with respect to the gas while such gas is in Pipeline's possession; provided, however, in the event any gas flows through facilities of Customer prior to such delivery to or for Customer's account, Pipeline shall have no responsibility with respect to such gas or on account of anything which may be done, happen or arise with respect to such gas while in the facilities of Customer.

**19. WARRANTY/INDEMNITY**

Customer warrants that Customer will at the time of receipt of the natural gas by Pipeline have good and merchantable title to all of the natural gas free and clear of all liens, encumbrances and claims whatsoever or good right to tender gas for transportation (and all necessary authorizations related thereto). Customer warrants to Pipeline that at the time of delivery of natural gas to Pipeline it will have obtained, and will maintain, or will have arranged for an appropriate party to obtain and maintain, any necessary authorizations for the removal of gas from the province of production, export of gas from Canada and import of gas into the United States and any other authorization required to permit its gas to be transported hereunder. Title or rights to the gas received by Pipeline for Customer's account hereunder shall remain with Customer during its transportation or storage by Pipeline. Customer agrees to indemnify and save Pipeline harmless from all suits, actions, debts, accounts, damages, costs, losses and expenses arising out of adverse claims of any and all persons to the natural gas prior to its delivery to Pipeline for Customer's account and after its delivery by Pipeline for Customer's account. Pipeline agrees to indemnify and save Customer harmless from all suits, actions, debts, accounts, damages, costs, losses and expenses arising out of adverse claims of any and all persons to the natural gas during its possession by Pipeline for Customer's account.

**20. FUEL RETAINAGE**

20.1 Fuel Retainage Quantity. The Fuel Retainage Quantity shall be the quantity of gas required as Company Used Gas by Pipeline to transport Customer's gas on its system. The Fuel Retainage Quantity shall be determined by multiplying the total nominated quantity of gas to be received at each Point of Receipt by the Fuel Retainage Percentage.

20.2 Fuel Retainage Percentage. The Fuel Retainage Percentage shall be determined by Pipeline based on its operating experience. The ~~initial~~ Fuel Retainage Percentage shall be set at 0.~~05%~~~~25%~~. On or before the twenty-fifth Day of the Month preceding each of the following two calendar periods, Pipeline shall provide Customer with written notice of any adjustments to be applied to the Fuel Retainage Percentage specified in the then-current Toll Sheets of this Tariff:

- (1) Winter Period: November 1 through March 31
- (2) Spring/Summer/Fall Period: April 1 through October 31

20.3 Adjustments. In determining adjustments, if any, to the Fuel Retainage Percentage for each of the periods specified in Section 20.2, Pipeline shall take into account the difference between: (i) the actual quantity of Fuel Retainage Gas realized as a result of application of this Article 20; and (ii) the actual quantity of Company Used Gas for the preceding period.

## 21. INVENTORY TRANSFER

21.1 A Customer entitled to service pursuant to a Service Agreement may transfer a quantity of gas that has been received into, but not delivered out of, Pipeline's facilities (such quantity of gas being referred to as "**Inventory**") to any other Customer entitled to service pursuant to a Service Agreement on the following terms and conditions outlined in this Article 21.

21.2 Customers wishing to transfer or receive Inventory shall provide Pipeline with written documentation satisfactory to Pipeline detailing:

- (a) the Customer transferring Inventory;
- (b) the Customer receiving Inventory to be transferred;
- (c) the quantity (in GJ's) of Inventory to be transferred;
- (d) the effective date of the Inventory transfer; and
- (e) if the documentation provides for Inventory to be transferred over a series of Days, the last of such series of Days upon which transfer is to be made.

21.3 Pipeline will accommodate Inventory transfers during the Nomination Cycles set forth in Article 5.

21.4 An Inventory transfer may be terminated prior to the date referred to in subsection 21.2(e) above, upon receipt by Pipeline of documentation satisfactory to Pipeline by one of the Customers involved in the transfer. The termination of the Inventory transfer will be effective at the next nomination time that is not less than six (6) hours from the time of receipt by Pipeline of the termination documentation.

- 21.5 The above terms and conditions are subject to all other provisions of the GT&C, including Article 11 ("**Balancing Provisions**").
- 21.6 An Inventory transfer may be carried out through an agent provided that Pipeline receives an executed Notice of Appointment of Agent for Daily Inventory Transfers, in the form prescribed by Pipeline, authorizing the agent to act on behalf of the Customers involved in the transfer.
- 22. [Left Blank Intentionally.]**
- 23. FORCE MAJEURE AND LIMITATION ON OBLIGATION TO PROVIDE SERVICE**
- 23.1 Relief from Liability. Neither party shall be liable in damages to the other for any act, omission or circumstance occasioned by or in consequence of any acts of God, strikes, lockouts, acts of the public enemy, wars, blockades, insurrections, riots, epidemics, landslides, land subsidence, lightning, earthquakes, fires, storms, floods, washouts, arrests and restraints of rulers and people, civil disturbances, explosions, breakage or accident to machinery or lines of pipe, line freeze-ups, failure of third party transportation, the binding order of any court or governmental authority which has been resisted in good faith by all reasonable legal means, and any other cause, whether of the kind herein enumerated, or otherwise, not within the control of the party claiming suspension and which by the exercise of due diligence such party is unable to prevent or overcome.
- 23.2 Liabilities not Relieved. Such causes affecting performance by either party, however, shall not relieve it of liability in the event of its contributory negligence or misconduct or in the event of its failure to use due diligence to remedy the situation and remove the cause in an adequate manner and with all reasonable dispatch, nor shall such causes or contingencies affecting performance relieve either party from its obligations to make payments of amounts as provided in the applicable Toll Schedule. Subject to Sections 8.6 and 8.7, Customer's obligation to pay applicable reservation charges shall not be suspended by any failure of Pipeline to deliver gas to or on behalf of Customer for any reason or cause whatsoever, whether or not described in this Article 23, except in the event that such failure is caused by the gross negligence, undue discrimination or willful misconduct of Pipeline.
- 23.3 Scheduling of Routine Maintenance. Pipeline shall have the right to curtail, interrupt, or discontinue service in whole or in part on all or a portion of its system from time to time to perform routine repair and maintenance on Pipeline's system as necessary to maintain the operational capability of Pipeline's system or to comply with applicable regulatory requirements. Pipeline shall exercise due diligence to schedule routine repair and maintenance so as to minimize disruptions of service to Customers and shall provide reasonable notice of the same to Customers.
- 23.4 Compliance with Directives of Governmental Agencies. Whenever in order to comply with orders, directives or regulations of duly constituted provincial, local or federal



authorities Pipeline must curtail deliveries to Customer and is unable to deliver to Customer the quantities of gas which Customer may then require up to the quantities of gas Pipeline is then obligated to deliver to Customer, Pipeline shall not be liable in damages or otherwise to Customer or any other person or entity for any such failure to deliver such quantities of gas to Customer except to the extent the orders or directives were issued as a result of gross negligence, undue discrimination or willful misconduct or failure to exercise due diligence on the part of Pipeline.

- 23.5 Effect of Interconnecting Operations. In the event that any upstream entity involved in handling Customer's gas refuses or is unable to deliver gas to Pipeline, Pipeline shall not be required to continue deliveries of gas on behalf of Customer to the extent of such refusal or inability to deliver gas to Pipeline. In the event that any downstream entity, including without limitation, Maritimes & Northeast Pipeline, L.L.C., involved in handling Customer's gas refuses or is unable to receive gas from Pipeline, Pipeline shall have the right to reduce deliveries of gas on behalf of Customer to the extent of such refusal or inability by the downstream entity to receive gas from Pipeline.

## **24. DISCRETIONARY WAIVERS**

Pipeline may waive any of its rights hereunder or any obligations of Customer on a basis that is not unduly discriminatory; provided that no waiver by either Customer or Pipeline of any one or more defaults by the other in the performance of any provision of the Service Agreement between Customer and Pipeline shall operate or be construed as a waiver of any future default or defaults, whether of a like or of a different character.

## **25. DESCRIPTIVE HEADINGS**

The descriptive headings of the provisions of this Tariff are formulated and used for convenience only and shall not be deemed to affect the meaning or construction of any of such provisions.

## **26. GOVERNMENTAL REGULATIONS**

The Service Agreement, and all terms and provisions contained or incorporated therein, and the respective obligations of the parties thereunder are subject to valid laws, orders, rules and regulations of duly constituted authorities having jurisdiction.

**PAGE NOS. 240 THROUGH 299  
HAVE NOT BEEN ISSUED BUT HAVE  
BEEN RESERVED FOR FUTURE USE**

**FORMS OF SERVICE AGREEMENTS  
INDEX**

**Descriptive Heading**

**Sheet No.**

FORM OF SERVICE AGREEMENT FOR TOLL SCHEDULE FT .....	<a href="#">301</a> <del>301</del>
FORM OF SERVICE AGREEMENT FOR TOLL SCHEDULE IT .....	<a href="#">307</a> <del>307</del>

**FORM OF SERVICE AGREEMENT  
FOR TOLL SCHEDULE FT**

This Service Agreement is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by and between Emera Brunswick Pipeline Company Ltd. (herein called "Pipeline") and \_\_\_\_\_ (herein called "Customer", whether one or more),

**W I T N E S S E T H:**

WHEREAS, Customer has requested and Pipeline has agreed to transport quantities of gas that are delivered by Customer or Customer's agent to Pipeline pursuant to the terms of this Service Agreement.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and agreements herein contained, the parties do covenant and agree as follows:

**ARTICLE I  
SCOPE OF AGREEMENT**

Subject to the terms, conditions and limitations hereof, of Pipeline's Toll Schedule FT, and of the GT&C, transportation service hereunder will be firm and Pipeline agrees to deliver for Customer's account quantities of natural gas up to the following quantity:

Maximum Daily Transportation Quantity (MDTQ) \_\_\_\_\_ GJ

Pipeline will receive for Customer's account for transportation hereunder daily quantities of gas up to Customer's MDTQ, plus Fuel Retainage Quantity, at Point(s) of Receipt as specified in Article IV herein. Pipeline will transport and deliver for Customer's account such daily quantities tendered up to such Customer's MDTQ at Point(s) of Delivery as specified in Article IV herein.

On any given Day, Pipeline shall not be obligated to, but may at its sole discretion, receive at Point(s) of Receipt quantities of gas in excess of Pipeline's Maximum Daily Receipt Obligation (MDRO), plus Fuel Retainage Quantity, but shall not be obligated to receive in the aggregate at all Points of Receipt on any Day a quantity of gas in excess of the applicable MDTQ, plus Fuel Retainage Quantity. On any given Day, Pipeline shall not be obligated to, but may at its sole discretion, deliver at Point(s) of Delivery quantities of gas in excess of Pipeline's Maximum Daily Delivery Obligation (MDDO), but shall not be obligated to deliver in the aggregate at all Points of Delivery on any Day a quantity of gas in excess of the applicable MDTQ.

**ARTICLE II  
TERM OF AGREEMENT**

This Agreement shall become effective as of the date set forth hereinabove and shall continue in effect for a term of \_\_\_\_\_ years from the Date of Commencement of Service ("Primary Term") and shall remain in force from year to year thereafter unless terminated by either party by written notice [at least two years for Long Term service agreements; at least six

months or mutually agreeable for Short Term service agreements] prior to the end of the Primary Term or any successive term thereafter.

Customer agrees that Pipeline may terminate this Service Agreement at any time subject to the provisions of Articles 4 and 16 of the GT&C and such provisions are incorporated herein by reference.

Any portions of this Service Agreement necessary to correct or cash-out imbalances or to make payment under this Service Agreement as required by the GT&C will survive the other parts of this Service Agreement until such time as such balancing or payment has been accomplished. To the extent that Customer desires to terminate this Service Agreement and Pipeline agrees to such termination, Pipeline will collect as part of the exit fee all (or such lesser portion as Pipeline agrees to) of the capacity Reservation Charges and surcharges otherwise recoverable by Pipeline from Customer for the balance of the contractual term, absent such early termination.

### **ARTICLE III TOLL SCHEDULE**

For the entire period when this Service Agreement is in effect, this Service Agreement will be subject to all provisions of Toll Schedule FT and the GT&C of Pipeline's Tariff on file with the National Energy Board, all of which are by this reference made a part hereof.

Customer agrees to and will pay Pipeline all Reservation, Usage and other charges and fees provided for in Toll Schedule FT, as effective from time to time, for service under this Service Agreement.

Customer agrees that Pipeline shall have the unilateral right to file with the appropriate regulatory authority and make changes effective in: (i) the tolls and charges applicable to service pursuant to Pipeline's Toll Schedule FT and under the Tariff; (ii) Pipeline's Toll Schedule FT; and/or (iii) any provision of the GT&C under the Tariff. Customer shall have the right to intervene and protest any such filing.

### **ARTICLE IV POINT(S) OF RECEIPT AND DELIVERY**

The Point(s) of Receipt and Point(s) of Delivery at which Pipeline shall receive and deliver gas, respectively, shall be specified in Exhibits A and B of this effective Service Agreement.

Exhibits A and B are hereby incorporated as part of this Service Agreement for all intents and purposes as if fully copied and set forth herein at length.

### **ARTICLE V QUALITY**

All natural gas tendered to Pipeline for Customer's account shall conform to the quality specifications set forth in Article 12 of Pipeline's GT&C. Customer agrees that if Customer

tenders gas for service hereunder and Pipeline accepts such gas which does not comply with Pipeline's quality specifications, Customer will pay all costs associated with processing of such gas as necessary to comply with such quality specifications.

## **ARTICLE VI ADDRESSES**

Except as herein otherwise provided or as provided in the GT&C, any notice, request, demand, statement, invoice or payment provided for in this Service Agreement, or any notice which any party desires to give to the other, must be in writing and will be considered as duly delivered when mailed by registered, certified, or regular mail to the post office address of the parties hereto, as the case may be, as follows:

- (a) Pipeline:
- (b) Customer:

or such other address as either party designates by formal written notice.

## **ARTICLE VII ASSIGNMENTS**

Any Company which succeeds by purchase, merger, or consolidation to the properties, substantially or in entirety, of Customer or of Pipeline will be entitled to the rights and will be subject to the obligations of its predecessor in title under this Service Agreement. Either Customer or Pipeline may assign or pledge this Service Agreement under the provisions of any mortgage, deed of trust, indenture, bank credit agreement, assignment, receivable sale, or similar instrument which it has executed or may execute hereafter. Except as set forth above, neither Customer nor Pipeline shall assign this Service Agreement or any of its rights hereunder without the prior written consent of the other party; provided, however, that neither Customer nor Pipeline shall be released from its obligations hereunder without the consent of the other. In addition, Customer may assign its rights to capacity pursuant to Article 9 of the GT&C.

## **ARTICLE VIII AGENCY ARRANGEMENT**

Customer shall have the right to designate an agent or person to provide nomination and scheduling information, to receive invoices and make payments and to take actions necessary to release capacity and handle imbalance resolutions for Customer on Customer's behalf. The agent may be the same as used for similar purposes with respect to transportation on Maritimes & Northeast Pipeline, L.L.C. or other third party pipeline. Customer must provide Pipeline with ten (10) Business Days' advance written notice of its agent and the effective date after which Pipeline is to act in accordance with the direction of the agent. Pipeline shall be entitled to rely on the representations, actions, and other directions of the agent on behalf of Customer and will be fully protected in relying upon such agent. Customer indemnifies and holds Pipeline harmless with respect to actions taken by Pipeline in reliance on Customer's agent.

**ARTICLE IX  
OPERATOR / PIPELINE**

Customer acknowledges and agrees that no claims shall be made against Operator or Pipeline, their officers, employees, and agents, under or in connection with this Service Agreement and the performance of their duties; provided that this shall not bar claims resulting from the gross negligence, undue discrimination or willful misconduct of Operator or Pipeline.

**ARTICLE X  
INTERPRETATION**

The parties hereto agree that the interpretation and performance of this Service Agreement must be in accordance with the laws of the Province of New Brunswick without recourse to the law governing conflict of laws.

This Service Agreement and the obligations of the parties are subject to all present and future valid laws with respect to the subject matter, Provincial and Federal, and to all valid present and future orders, rules, and regulations of duly constituted authorities having jurisdiction.

**ARTICLE XI  
CANCELLATION OF PRIOR CONTRACT(S)**

This Service Agreement supersedes and cancels, as of the effective date of this Service Agreement, the contract(s) between the parties hereto as described below:

IN WITNESS WHEREOF, the parties hereto have caused this Service Agreement to be executed by their respective duly authorized officers and attested by their respective Secretaries or Assistant Secretaries, the day and year first above written.

**EMERA BRUNSWICK PIPELINE  
COMPANY LTD.**

By: \_\_\_\_\_

ATTEST:  
  
\_\_\_\_\_

\_\_\_\_\_

By: \_\_\_\_\_

ATTEST:  
  
\_\_\_\_\_

**EXHIBIT A**

to

**SERVICE AGREEMENT UNDER  
TOLL SCHEDULE FT  
BETWEEN EMERA BRUNSWICK PIPELINE COMPANY LTD.  
AND**

\_\_\_\_\_ ("CUSTOMER")  
**DATED** \_\_\_\_\_

**FIRM RECEIPT POINTS**

<b>RECEIPT POINT</b>	<b>MDRO</b>	<b>RECEIPT PRESSURE LIMITATIONS</b>
_____ (plus applicable fuel retainage quantities)	_____	_____

Signed for Identification

Pipeline: \_\_\_\_\_

Customer: \_\_\_\_\_

Supersedes Exhibit A Dated \_\_\_\_\_



**EXHIBIT B**

to

**SERVICE AGREEMENT UNDER  
TOLL SCHEDULE FT  
BETWEEN EMERA BRUNSWICK PIPELINE COMPANY LTD.  
AND**

\_\_\_\_\_ ("CUSTOMER")  
**DATED** \_\_\_\_\_

**FIRM DELIVERY POINTS**

<b>DELIVERY POINT</b>	<b>MDRO</b>	<b>DELIVERY PRESSURE LIMITATIONS</b>
-----------------------	-------------	--

Signed for Identification

Pipeline: \_\_\_\_\_

Customer: \_\_\_\_\_

Supersedes Exhibit B Dated \_\_\_\_\_

**FORM OF SERVICE AGREEMENT  
FOR TOLL SCHEDULE IT**

This Service Agreement is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by and between Emera Brunswick Pipeline Company Ltd. (herein called "Pipeline") and \_\_\_\_\_ (herein called "Customer", whether one or more),

**W I T N E S S E T H:**

WHEREAS, Customer has requested and Pipeline has agreed to transport quantities of gas that are delivered by Customer or Customer's agent to Pipeline pursuant to the terms of this Service Agreement.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and agreements herein contained, the parties do covenant and agree as follows:

**ARTICLE I  
SCOPE OF AGREEMENT**

Subject to the terms, conditions and limitations hereof, of Pipeline's Toll Schedule IT, and of the GT&C, transportation service hereunder will be interruptible and Pipeline agrees to deliver for Customer's account quantities of natural gas up to the following quantity:

Maximum Daily Transportation Quantity (MDTQ) \_\_\_\_\_ GJ

Service hereunder shall be subject to curtailment or interruption at any time that Pipeline determines in its sole discretion that deliveries hereunder would in any way interfere with or restrict Pipeline's ability to make deliveries of gas under any and all transportation services having a higher priority on Pipeline's system pursuant to Article 8 of the GT&C than service requested hereunder. Subject to the foregoing, Pipeline will receive for Customer's account for transportation hereunder daily quantities of gas up to Customer's MDTQ, plus Fuel Retainage Quantity at Point(s) of Receipt as specified in Article IV herein. Pipeline will transport and deliver for Customer's account such daily quantities tendered up to such Customer's MDTQ at Point(s) of Delivery as specified in Article IV herein.

On any given Day, Pipeline shall not be obligated to, but may at its sole discretion, receive at Point(s) of Receipt quantities of gas in excess of Pipeline's Maximum Daily Receipt Obligation (MDRO), plus Fuel Retainage Quantity, but shall not receive in the aggregate at all Points of Receipt on any Day a quantity of gas in excess of the applicable MDTQ, plus Fuel Retainage Quantity. On any given Day, Pipeline shall not be obligated to, but may at its sole discretion, deliver at Point(s) of Delivery quantities of gas in excess of Pipeline's Maximum Daily Delivery Obligation (MDDO), but shall not deliver in the aggregate at all Points of Delivery on any Day a quantity of gas in excess of the applicable MDTQ.

**ARTICLE II  
TERM OF AGREEMENT**

This Agreement shall become effective as of the date set forth hereinabove and shall continue in effect for a term of \_\_\_\_\_ years from the Date of Commencement of Service

("Primary Term") and shall remain in force from year to year thereafter unless terminated by either party by written notice [at least two years for long term service agreements; mutually agreeable for short term service agreements] prior to the end of the Primary Term or any successive term thereafter.

Customer agrees that Pipeline may terminate this Service Agreement at any time subject to the provisions of Articles 4 and 16 of the GT&C and such provisions are incorporated herein by reference.

Any portions of this Service Agreement necessary to correct or cash-out imbalances or to make payment under this Service Agreement as required by the GT&C will survive the other parts of this Service Agreement until such time as such balancing or payment has been accomplished. To the extent that Customer desires to terminate this Service Agreement and Pipeline agrees to such termination, Pipeline will collect as part of the exit fee all (or such lesser portion as Pipeline agrees to) of the capacity Reservation Charges and surcharges otherwise recoverable by Pipeline from Customer for the balance of the contractual term, absent such early termination.

### **ARTICLE III TOLL SCHEDULE**

For the entire period when this Service Agreement is in effect, this Service Agreement will be subject to all provisions of Toll Schedule IT and the GT&C of Pipeline's Tariff on file with the National Energy Board, all of which are by this reference made a part hereof.

Customer agrees to and will pay Pipeline all Usage and other charges and fees provided for in Toll Schedule IT, as effective from time to time, for service under this Service Agreement.

Customer agrees that Pipeline shall have the unilateral right to file with the appropriate regulatory authority and make changes effective in: (i) the tolls and charges applicable to service pursuant to Pipeline's Toll Schedule IT; (ii) Pipeline's Toll Schedule IT; and/or (iii) any provision of the GT&C under Pipeline's Tariff. Customer shall have the right to intervene and protest any such filing.

### **ARTICLE IV POINT(S) OF RECEIPT AND DELIVERY**

All Point(s) of Receipt and Point(s) of Delivery at which Pipeline receives and delivers gas, respectively, shall be available as Point(s) of Receipt and Point(s) of Delivery under this Service Agreement.

Pipeline shall not be obligated to receive gas at any pressure less than the operating pressure of Pipeline's system at the Point(s) of Receipt. Pipeline shall deliver gas at each Point(s) of Delivery at such pressures as may exist on Pipeline's system from time to time at such point. In no event shall Pipeline be obligated to deliver gas at any time at a pressure in excess of the Maximum Allowable Operating Pressure for Pipeline's facilities at any point.

## **ARTICLE V QUALITY**

All natural gas tendered to Pipeline for Customer's account shall conform to the quality specifications set forth in Article 12 of Pipeline's GT&C. Customer agrees that if Customer tenders gas for service hereunder and Pipeline accepts such gas which does not comply with Pipeline's quality specifications, Customer will pay all costs associated with processing of such gas as necessary to comply with such quality specifications.

## **ARTICLE VI ADDRESSES**

Except as herein otherwise provided or as provided in the GT&C, any notice, request, demand, statement, invoice or payment provided for in this Service Agreement, or any notice which any party desires to give to the other, must be in writing and will be considered as duly delivered when mailed by registered, certified, or regular mail to the post office address of the parties hereto, as the case may be, as follows:

- (a) Pipeline:
- (b) Customer:

or such other address as either party designates by formal written notice.

## **ARTICLE VII ASSIGNMENTS**

Any Company which succeeds by purchase, merger, or consolidation to the properties, substantially or in entirety, of Customer or of Pipeline will be entitled to the rights and will be subject to the obligations of its predecessor in title under this Service Agreement. Either Customer or Pipeline may assign or pledge this Service Agreement under the provisions of any mortgage, deed of trust, indenture, bank credit agreement, assignment, receivable sale, or similar instrument which it has executed or may execute hereafter. Except as set forth above this Service Agreement is not assignable.

## **ARTICLE VIII AGENCY ARRANGEMENT**

Customer shall have the right to designate an agent or person to provide nomination and scheduling information, to receive invoices and make payments and to take actions necessary to release capacity and handle imbalance resolutions for Customer on Customer's behalf. The agent may be the same as used for similar purposes with respect to transportation on Maritimes & Northeast Pipeline, L.L.C. or other third party pipeline. Customer must provide Pipeline with ten (10) Business Days' advance written notice of its agent and the effective date after which Pipeline is to act in accordance with the direction of the agent. Pipeline shall be entitled to rely on the representations, actions, and other directions of the agent on behalf of Customer and will be fully protected in relying upon such agent. Customer indemnifies and holds Pipeline harmless with respect to actions taken by Pipeline in reliance on Customer's agent.

**ARTICLE IX  
OPERATOR / PIPELINE**

Customer acknowledges and agrees that no claims shall be made against Operator or Pipeline, their officers, employees, and agents, under or in connection with this Service Agreement and the performance of their duties; provided that this shall not bar claims resulting from the gross negligence, undue discrimination or willful misconduct of Operator or Pipeline.

**ARTICLE X  
INTERPRETATION**

The parties hereto agree that the interpretation and performance of this Service Agreement must be in accordance with the laws of the Province of New Brunswick without recourse to the law governing conflict of laws.

This Service Agreement and the obligations of the parties are subject to all present and future valid laws with respect to the subject matter, Provincial and Federal, and to all valid present and future orders, rules, and regulations of duly constituted authorities having jurisdiction.

**ARTICLE XI  
CANCELLATION OF PRIOR CONTRACT(S)**

This Service Agreement supersedes and cancels, as of the effective date of this Service Agreement, the contract(s) between the parties hereto as described below:

IN WITNESS WHEREOF, the parties hereto have caused this Service Agreement to be executed by their respective duly authorized officers and attested by their respective Secretaries or Assistant Secretaries, the day and year first above written.

**EMERA BRUNSWICK PIPELINE  
COMPANY LTD.**

By: \_\_\_\_\_

ATTEST:  
  
\_\_\_\_\_

\_\_\_\_\_

By: \_\_\_\_\_

ATTEST:  
  
\_\_\_\_\_

**PAGE NOS. 311 THROUGH 399  
HAVE NOT BEEN ISSUED BUT HAVE  
BEEN RESERVED FOR FUTURE USE**