

GENERAL TERMS AND CONDITIONS – INDUSTRIAL TRANSPORTATION SERVICE

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ARTICLE 1
DEFINITIONS

Except as specifically provided herein or unless the context otherwise requires, all words and phrases used herein, or in any agreement into which these General Terms and Conditions are incorporated, shall have the following meanings. Capitalized terms not defined herein shall have the meaning given them in the Shipper's Service Agreement.

"10³m³", when used in reference to Gas, means one thousand (1000) cubic metres of Gas;

"Affiliate" means a Person (other than a Party) that directly or indirectly controls, is controlled by, or is under common control with, a Party, and for such purposes the terms **"control"**, **"controlled by"** and other derivatives shall mean the direct or indirect ownership of greater than or equal to fifty percent (50%) of the voting rights in a Person, or of the equivalent rights to determine the decisions of such Person;

"Approved Letter of Credit" means a letter of credit (including any amendments), all in a form satisfactory to Transporter, issued to Transporter as beneficiary by a financial institution with a credit rating of "A" or better by Standard & Poor's Financial Services LLC, "A2" or better by Moody's Investors Service, Inc., or "A" or better by DBRS Limited for the unenhanced long term senior unsecured debt of the financial institution providing the letter of credit and otherwise subject to the Uniform Customs and Practice for Documentary Credits 2007 Revision ICC Publication No. 600 or International Standby Practices ISP98 International Chamber of Commerce; provided that if the issuing financial institution is not listed in Schedule 1 of the Bank Act (Canada), the applicable letter of credit will: (i) be advised by a financial institution listed in Schedule 1 of the Bank Act (Canada); and (ii) specify that payment under it shall be available at the advisory financial institution;

"Authorities" shall mean all Canadian governmental and regulatory authorities having jurisdiction over Transporter or Shipper, as the case may be, and **"Authority"** means any of them;

"BCUC" shall mean the British Columbia Utilities Commission established by the Utilities Commission Act of British Columbia or any successor Authority or Authorities having jurisdiction over the approval, licensing, construction, operation or tolls of intraprovincial pipelines in Gas service in British Columbia;

"Business Day" means any day which is not a Saturday or a Sunday or a statutory holiday in the Province of British Columbia or a legal holiday for banks in Vancouver, British Columbia;

"CCT" shall mean Central Clock Time, representing the time in effect in the central time zone in Canada at the time the transaction occurs, regardless of whether that time may be standard time or daylight savings time as those terms are commonly known or understood;

"Commencement Date" means the first day of Service pursuant to Shipper's Service Agreement;

"Credit Support" means an Approved Letter of Credit for an amount equal to twelve (12), or if the Shipper or its Guarantor is Creditworthy three (3), times the Shipper's anticipated monthly toll charges, as determined by Transporter in its reasonable discretion, or alternate forms of credit enhancement, determined by Transporter in its sole discretion, providing at least an equivalent level of security to Transporter hereunder;

“**Creditworthy**” means a Person that, as at the Effective Date of the Service Agreement and thereafter, for the term of the Service Agreement, has a credit rating for its unenhanced long term senior unsecured debt that meets the Minimum Acceptable Rating;

“**Critical Shipper Default**” shall have the meaning ascribed to it in Section 16.5;

“**Cubic metre**” or “**m³**” ~~or “**10³m³**”~~ shall mean, when used in reference to Gas, the volume of Gas which occupies one (1) cubic metre when such Gas is at a temperature of 15 degrees Celsius and at an absolute pressure of 101.325 kilopascals;

“**Curtailement Notice**” shall mean a notice given by Transporter to Shipper limiting the volume of Gas Shipper: (i) may receive at the Delivery Point; or (ii) is authorized and required to deliver to the Receipt Point, on any Day to a specified volume;

“**Daily Authorized Volume**” shall have the meaning ascribed to it in Section 3.4;

“**Day**” or “**Daily**” shall mean a period of twenty-four (24) consecutive hours beginning and ending at 0900 CCT, or such other period of twenty-four (24) consecutive hours agreed to by Transporter and Shipper;

“**Delivery Pipelines**” shall mean any Gas transportation pipeline or pipelines delivering Gas to Transporter at the Receipt Point;

“**Delivery Point**” shall mean the point specified as such in Shipper’s Service Agreement;

“**Demand Charge**” shall mean the per GJ rate payable by Shipper to Transporter for Firm Service as set out in Transporter’s then current Toll Schedule;

“**Demand Charge Credits**” shall have the meaning ascribed to it in Section 7.1;

“**Early Termination Charge**” means an amount equal to the net present value of all future Demand Charges multiplied by the Shipper’s Contracted Capacity from the date of termination until the end of the Primary Term, as this term may have been extended in accordance with the Service Agreement prior to the date of termination, using a discount rate equal to the Transporter’s Weighted Average Cost of Capital as at the date of termination; provided that if the Commencement Date has not occurred as at the date of termination, then for purposes of calculating the Early Termination Charge (which shall be deemed payable as if the Service has commenced notwithstanding that the Service has not in fact commenced) the Primary Term shall be deemed to end on the date that is the number of years of the Initial Delivery Term following the later of: (i) the Shipper Service Request Date; or (ii) the date of termination of the Service Agreement, as applicable;

“**Effective Date**” shall have the meaning ascribed to it in the Shipper’s Service Agreement;

“**Firm Service**” means the Service offered to Shipper for the Shipper’s Contracted Capacity, subject to interruption or curtailment, only as provided under these General Terms and Conditions;

“**Force Majeure**” shall have the meaning ascribed to it in Section 15.1;

“**Gas**” shall mean any hydrocarbons or mixture of hydrocarbons that, at a temperature of 15 degrees Celsius and a pressure of 101.325 kilopascals is in a gaseous state which meets the quality specifications as set out in Article 11 of these General Terms and Conditions;

“GJ” shall mean gigajoule being 1,000,000,000 Joules and include the plural as the context requires;

“Gross Heating Value” shall mean the total Joules expressed in megajoules per cubic metre (MJ/ m³) produced by the complete combustion at constant pressure of one (1) cubic metre of Gas with air, with Gas free of water vapour and the temperature of the Gas, air and products of combustion to be at standard temperature and all water formed by combustion reaction to be condensed to the liquid state;

“Guarantee” means a guarantee substantially in the form attached as Schedule A to these General Terms and Conditions, together with such supplementary documentation or credit support as may be reasonably required by Transporter to ensure the Guarantee is and will be enforceable from time to time against the Guarantor by Transporter, including, without limitation, the granting of additional security and the execution and delivery of any additional instruments or documents (by Shipper, Guarantor or any third party) to provide assurance to Transporter that all of Shipper’s obligations under the Service Agreement will be enforceable against an entity or entities that have sufficient assets to fully carry out and discharge such obligations;

“Guarantor” means a Creditworthy Person that guarantees the Shipper’s payment obligations under Shipper’s Service Agreement by executing and delivering the Guarantee;

“Imbalances” shall mean, collectively, all imbalances or variances defined in Section 6.1, and **“Imbalance”** means any one of such imbalances or variances, as the context requires;

“Interruptible Charge” shall mean the unit \$ per GJ rate payable by Shipper to Transporter for Interruptible Service as set out in Transporter’s then current Toll Schedule;

“Interruptible Service” means Service offered to Shipper for Gas in excess of the Shipper’s Contracted Capacity, if any, and which is subject to interruption or curtailment at the Transporter’s discretion;

“Joules” or “J” shall mean the work done when the point of application of a force of one (1) newton is displaced a distance of one (1) metre in the direction of the force;

“Minimum Acceptable Rating” shall mean at least two of the following: (i) “BBB-” or better by Standard & Poor’s Financial Services LLC; (ii) “Baa3” or better by Moody’s Investors Service, Inc.; (iii) “BBB(low)” or better by DBRS Limited; or (iv) other equivalent rating(s) from a recognized rating agency or agencies acceptable to Transporter. In cases where ratings of the aforementioned rating agencies are different, the lowest credit rating shall be used to establish the applicable rating in respect of any entity. In the event none of the aforementioned rating agencies publish relevant ratings, Transporter, acting in its sole discretion, may determine whether the applicable entity would meet the relevant ratings if such rating agencies were to publish such ratings;

“Month” shall mean the period of time commencing at the beginning of the first Day of any calendar month and ending at the beginning of the first Day of the next succeeding calendar month;

“Nomination” shall have the meaning ascribed to it in Section 3.1;

“Parties” shall mean, collectively, Transporter and Shipper and their respective successors and permitted assigns, and **“Party”** means, individually, Transporter and its successors and permitted assigns, or Shipper and its successors and permitted assigns;

“Person” shall mean an individual, partnership, limited partnership, joint venture, syndicate, sole proprietorship, company or corporation with or without share capital, unincorporated association, trust, trustee, executor,

administrator or other legal personal representative, regulatory body or agency, government or governmental agency, authority or entity however designated or constituted;

“Pipeline” shall mean Transporter’s Gas transmission pipeline system which extends from a point of interconnection with Enbridge Westcoast Energy Inc., near Summit Lake, British Columbia, to Prince Rupert, British Columbia and to Kitimat, British Columbia, including any capital or facility additions required for the provision of Service;

“Receipt Point” shall mean an interconnection between the Pipeline and a Delivery Pipeline as set out in the Schedule A of the Service Agreement between Transporter and Shipper;

“Service” shall mean the transportation of Gas by the Transporter from the Receipt Point to the Delivery Point and shall include both Firm Service and Interruptible Service;

“Service Agreement” shall mean an agreement between Transporter and a Shipper for either Firm Service or Interruptible Service on the Pipeline;

“Shipper” shall mean a shipper receiving Service;

“Shipper Default” shall mean the meaning ascribed to it in Section 16.2;

“Shipper’s Contracted Capacity” shall mean the volume of Gas for which Transporter has agreed to provide Firm Service and for which Shipper has agreed to pay Demand Charges in accordance with the terms of the Shipper’s Service Agreement;

“System Gas” shall mean the quantity of Gas required by Transporter to operate the Pipeline, including compressor fuel Gas, line heater and compressor station heating Gas and unaccounted for Gas losses or gains;

“System Gas Percentage” shall mean the quantity of System Gas as a percentage of the quantity of all deliveries of Gas (other than deliveries of System Gas) transported on the Pipeline over the same time period;

“Taxes” means all taxes, however denominated, including any interest, penalties or other surcharges that may become payable in respect thereof, imposed by any federal, provincial, municipal, local or other governmental authority (including any taxes or other charges imposed by native or aboriginal groups claiming territorial rights) at any time during the term of the Service Agreement, which taxes are based upon, or related to: (i) the System Gas consumed in Transporter’s operations; or (ii) the volume of Gas transported by Transporter under the Service Agreement;

“Toll Schedule” shall mean Transporter’s schedule of Demand Charges and Interruptible Charges in effect from time to time in accordance with the Service Agreement between Transporter and Shipper;

“Transporter” shall mean Pacific Northern Gas Ltd., a body corporate incorporated pursuant to the laws of British Columbia, its successors and permitted assigns;

“Transporter’s Weighted Average Cost of Capital” or **“TWACC”** means the aggregate cost of each capital component multiplied by its proportional weight as set out in the formula below:

$$TWACC = (E \times K_e) \div (1 - t) + (1 - E) \times K_d$$

Where:

“E” means the current common equity ratio for the Pipeline as approved by the BCUC

“Ke” means the current return on equity for the Pipeline as approved by the BCUC

“Kd” means the current regulated weighted average cost of debt for the Pipeline

“t” means the current statutory income tax rate for the Pipeline; and

“Year” shall mean a period of three hundred sixty-five (365) consecutive days commencing January 1st of any year; provided however, that any such year which contains a date of February 29 shall consist of three hundred sixty-six (366) consecutive days.

ARTICLE 2 AVAILABILITY OF SERVICE

2.1 Transporter shall provide Service on the Pipeline on the following basis:

- (a) Firm Service for the Primary Term and any extensions thereof, for which the Shipper shall pay the Demand Charge, together with the Transporter’s charges for System Gas and Taxes; and
- (b) Interruptible Service for the Primary Term and any extensions thereof, for which the Shipper shall pay the Interruptible Charge, together with the Transporter’s charges for System Gas and Taxes.

2.2 To be eligible to receive Service, Shipper shall also:

- (a) be or become a party to a Service Agreement;
- (b) have made arrangements, acceptable to Transporter for transportation on upstream carriers, if applicable; and
- (c) have met the requirements of Article 17.

ARTICLE 3
GAS NOMINATIONS AND DELIVERIES

- 3.1 Shipper shall by 10 a.m. CCT on each Day, commencing with the Day prior to the Commencement Date, notify Transporter in writing by fax or other electronic means agreed to by Shipper and Transporter of the volume of Gas that Shipper in good faith desires Transporter to deliver to Shipper at the Delivery Point for Service on the following Day, and such other information as Transporter reasonably determines as necessary ("**Nomination**"). A Nomination for each Day which is at or below the Shipper's Contracted Capacity will be treated as a Nomination for Firm Service. For any Nomination that exceeds the Shipper's Contracted Capacity on a Day, the portion of such Nomination up to the Shipper's Contracted Capacity will be treated as a Nomination for Firm Service and the remaining portion of such Nomination (which exceeds the Shipper's Contracted Capacity) will be treated as a Nomination for Interruptible Service. Each notification may include Gas Nominations for multiple Day periods.
- 3.2 Transporter shall by 12:00 p.m. CCT on the same Day confirm Shipper's Nomination by notifying Shipper in writing by fax or other electronic means or verbally of the volume of Gas Transporter will deliver to Shipper at the Delivery Point and the volume of Gas Shipper is authorized and required to deliver to the Receipt Points for Service, such volume to include the Shipper's share of System Gas. If Transporter, acting reasonably, determines that it is unable to receive, transport and deliver the volume of Gas Nominated by Shipper at the Delivery Point pursuant to Section 3.1, then Transporter shall notify Shipper of the volume of Gas Transporter will deliver to Shipper at the Delivery Point and the volume of Gas that Shipper is authorized and required to deliver to Transporter at the Receipt Point. Transporter shall not reduce a Nomination for Firm Service unless Transporter is unable to receive, transport and deliver the volume of Gas Nominated by Shipper due to Force Majeure or scheduled maintenance and in such event, Transporter shall notify Shipper of a reduction of a Nomination for Firm Service in writing and the reason why Transporter is unable to receive, transport and deliver the volume of firm Gas Nominated by Shipper. If Transporter fails to notify Shipper of the volume of Gas Transporter will deliver to Shipper at the Delivery Point and the volume of Gas that Shipper is authorized and required to deliver to Transporter at the Receipt Point as provided herein, the volume of Gas Nominated by Shipper under Section 3.1 or that is deemed to be in effect under Section 3.3 shall be deemed to have been authorized by Transporter. Subject to these General Terms and Conditions, Transporter shall not reduce Shipper's Nomination for Firm Service without first reducing Nominations for Interruptible Service to all other Shippers as appropriate considering Pipeline operating conditions and without reducing Nominations for Firm Service to other Shippers pro rata based on their respective Shipper's Contracted Capacities.
- 3.3 On any Day that Shipper fails to notify Transporter under Section 3.1, then the last Nomination given under Section 3.1 shall remain in effect until a new Nomination is received by Transporter.
- 3.4 In addition to the volumes of Gas specified under Section 3.5, Shipper shall each Day have the right and the obligation to deliver to Transporter at the Receipt Point the volume of Gas Transporter will deliver to Shipper at the Delivery Point for Service on that Day pursuant to the foregoing sections of this Article 3 (the "**Daily Authorized Volume**").
- 3.5 The following shall apply in respect of the provision in kind to Transporter of Shipper's share of System Gas:

- (a) Transporter shall advise Shippers of Shipper's System Gas Percentage at least five (5) Days prior to the first day in each Month or, in the absence of such notification, Shipper shall use Shipper's last Monthly System Gas Percentage established by Transporter;
 - (b) if, during any Month, there are material changes in the quantities of System Gas, Transporter may change Shipper's System Gas Percentage which is then in effect pursuant to this Section and will give notice to Shipper of such changes at least two (2) Days prior to the Day on which the changes are to come into effect;
 - (c) Transporter will not change Shipper's System Gas Percentage in accordance with subsection (b) above more frequently than once every seven (7) days;
 - (d) changes in Shipper's System Gas Percentage made pursuant to the foregoing shall remain in effect until the end of the Month in which the changes were made, unless subsequently changed by Transporter in accordance with this Section; and
 - (e) Shipper shall supply to Transporter each Day at the Receipt Point a quantity of Gas calculated by multiplying the applicable System Gas Percentage by the Daily Authorized Volume.
- 3.6 Transporter shall not be obligated to receive from the Shipper at the Receipt Point or deliver to Shipper at the Delivery Point in any one hour during any Day more than 5% of the volume of Gas Shipper is entitled to receive on such Day; provided however, Transporter shall use commercially reasonable efforts to accommodate receipts from and deliveries to Shipper in excess of such amounts.
- 3.7 Transporter, acting reasonably and in accordance with Section 3.8, as a result of an event of Force Majeure or scheduled maintenance, may curtail the delivery of Gas hereunder by issuing a Curtailment Notice to Shipper specifying the volume of Gas available for delivery to Shipper at the Delivery Point, the volume of Gas that Shipper is authorized and required to deliver to Transporter at the Receipt Point and the reason for the curtailment. The curtailment shall be effective at the time specified in the Curtailment Notice which shall be not less than twenty-four (24) hours from the time of delivery of the Curtailment Notice, except in cases of Force Majeure. Transporter shall provide Shipper with the Curtailment Notice as soon as reasonably possible after Transporter becomes aware of the need for the Curtailment Notice and shall provide as much prior notice as reasonably possible given the circumstances to minimize the impact of a curtailment on Shipper's operations. Shipper agrees that curtailments due to a Force Majeure event may require immediate notice of curtailment and in such event, Transporter may, at its sole discretion, immediately curtail receipts from Shipper by closing Transporter's Gas valve at the Receipt Point. Shipper shall not be liable for any failure to fully comply with a Curtailment Notice that is issued by Transporter with less than twenty-four (24) hours' notice due to a Force Majeure event, provided that it uses its reasonable and diligent efforts to comply with the requirements of the Curtailment Notice.
- 3.8 If on any Day Shipper fails to accept all or any portion of the Gas delivered by Transporter at the Delivery Point, Transporter shall have the right to curtail further receipts of Gas from Shipper at the Receipt Point in a volume equal to that which Shipper failed to accept from Transporter. If on any Day Shipper fails to deliver the Daily Authorized Volume and Shipper's share of System Gas, Transporter shall have the right to curtail further deliveries of Gas to Shipper at the Delivery Point in a volume equivalent to that which Shipper failed to deliver.
- 3.9 Provided Shipper is in compliance with these General Terms and Conditions, Transporter shall not curtail or interrupt Firm Service to Shipper without first having ceased to provide Interruptible Service to all other Shippers of Transporter as appropriate considering Pipeline operating conditions and without, to the

extent required, curtailing Firm Service to all other Shippers based on their respective contracted capacities.

- 3.10 Transporter shall provide Shipper with Interruptible Service as required by Shipper from time to time, subject to curtailment in accordance with Sections 3.2, 3.7 and 3.11.
- 3.11 Transporter shall curtail Interruptible Service in the following order: (i) Shippers paying the lowest Interruptible Charge shall be curtailed first and Shippers paying the highest Interruptible Charge shall be curtailed last; and (ii) Shippers paying the same Interruptible Charge shall be curtailed pro rata based on the bona fide Nominations for Interruptible Service by each Shipper.

ARTICLE 4 TOLLS AND COMMENCEMENT OF TOLLS

- 4.1 Shipper shall pay the Demand Charge for the Shipper's Contracted Capacity from the Commencement Date in accordance with the Toll Schedule. Notwithstanding anything to the contrary herein, this obligation of Shipper to pay the Demand Charge shall not be abated, removed, limited, or otherwise reduced under any circumstances whatsoever, including events of Force Majeure.
- 4.2 Subject to Section 7.2, Shipper shall pay the Interruptible Charge for deliveries in excess of the Shipper's Contracted Capacity on any Day in accordance with the Toll Schedule.
- 4.3 Shipper shall also pay all Taxes allocated to Shipper by Transporter in the Month.
- 4.4 At commencement of each calendar year, for the purposes of calculating the Demand Charge, the Shipper's Contracted Capacity will be converted to GJ using the published or most recently announced Enbridge Westcoast Inc. Gross Heating Value applicable to gas deliveries at Summit Lake for such year. Total Demand Charges payable each month by the Shipper will be calculated by multiplying the Demand Charge then in effect under the Shipper's Toll Schedule times by the Shipper's Contract Capacity as converted to GJ in accordance with the previous sentence times the number of days in such month.

ARTICLE 5 SERVICE AND COMMENCEMENT OF SERVICE

- 5.1 Service hereunder shall commence on the Commencement Date.
- 5.2 At least ten (10) days prior to the Commencement Date, Transporter shall provide Shipper with written notification of such date. At least five (5) days prior to the Commencement Date, Shipper shall provide Transporter with its best estimate of the volume of Gas, Shipper in good faith desires Transporter to deliver to Shipper at the Delivery Point, utilizing Service for each of the Days in the thirty (30) consecutive Day period beginning on the Commencement Date.
- 5.3 Transporter shall provide Service for Shipper in accordance with the volumes of Gas Nominated by Shipper and authorized by Transporter pursuant to Article 3.

**ARTICLE 6
GAS BALANCING**

- 6.1 Shipper shall use all commercially reasonable efforts to maintain balance on a Daily basis, based on the best available information, between each of:
- (a) the volume of Gas scheduled for receipt to Shipper's account under Service and the actual volume of Gas received to Shipper's account under Service ("**Volume Receipt Variance**");
 - (b) the energy scheduled for receipt to Shipper's account under Service and the actual energy received to Shipper's account under Service ("**Energy Receipt Variance**");
 - (c) the actual volume received to Shipper's account and the actual volume of Gas delivered by Transporter under Service from Shipper's account ("**Volume Imbalance**"); and
 - (d) the actual energy received to Shipper's account and the actual energy delivered by Transporter under Service from Shipper's account ("**Energy Imbalance**").
- 6.2 Any Energy Imbalance at the end of any Month shall be corrected on a physical basis within the first twenty-five (25) Days of the next Month in a manner determined by Transporter, acting reasonably, and in consultation with Shipper.
- 6.3 If Shipper fails to correct any Imbalance in accordance with Sections 6.1 or 6.2, Transporter may adjust Shipper's Nomination and Shipper's Daily Authorized Volume, or either of them, to the extent that Transporter, in its reasonable discretion, considers necessary to ensure compliance by Shipper with its obligations under this Article 6 and to prevent the occurrence of Imbalances by Shipper.
- 6.4 If on any day that a Curtailment Notice is in effect, Shipper takes gas in excess of the volume specified by Transporter in the Curtailment Notice, then Shipper shall, in addition to all other amounts payable by Shipper to Transporter pursuant to a Service Agreement, pay Transporter the following:
- (a) for that portion of the excess between 102.5% and up to and including 105% of such specified volume, an amount per GJ equal to five (5) times the Demand Charge;
 - (b) for that portion of the excess between 105% and up to and including 110% of such specified volume, an amount per GJ equal to ten (10) times the Demand Charge; and
 - (c) for that portion of the excess which exceeds 110% of such specified volume, an amount per GJ equal to fifteen (15) times the Demand Charge.
- For the purposes of calculating the charges payable under this Section 6.4, volumes will be converted to GJ using the Gross Heating Value specified in Section 4.4.
- 6.5 The foregoing balancing provisions are intended to provide Transporter and Shipper with reasonable flexibility in operating their respective facilities to balance authorized and actual Gas deliveries on a Daily basis.

**ARTICLE 7
DEMAND CHARGE CREDITS**

7.1 If for any reason, including when Transporter issues Shipper with a Curtailment Notice or notice of Force Majeure, Transporter is unable to deliver either Shipper's Contracted Capacity or Nomination for the day on the Pipeline, whichever is lesser, or Shipper is unable to Nominate Shipper's Contracted Capacity due to Force Majeure, then Shipper shall earn a credit ("**Demand Charge Credits**") equal to the Demand Charge times the difference between:

- (a) the lesser of the Nomination or Shipper's Contracted Capacity; and
- (b) the volume of Gas delivered by Transporter

except where Shipper is claiming Force Majeure, in which case, the credit shall be equal to the Demand Charge times the difference between:

- (c) Shipper's Contracted Capacity; and
- (d) the Nomination.

For the purposes of calculating the Demand Charge Credits applicable under this Section 7.1, volumes will be converted to GJ using the Gross Heating Value specified in Section 4.4.

7.2 Any Demand Charge Credits earned by Shipper under Section 7.1 will be applied by Transporter to reduce Shipper's Interruptible Charges in the Month and any subsequent Months to the extent not utilized in the current Month.

**ARTICLE 8
STATEMENTS PAYMENT AND AUDITS**

8.1 Within fifteen (15) Days of the end of each Month, Transporter shall deliver to Shipper by electronic or other means a statement of the amount payable by Shipper to Transporter for the preceding Month pursuant to the terms of the Service Agreement, these General Terms and Conditions and the Toll Schedule. If actual quantities are unavailable in time to prepare the statement, such charges will be based on estimated quantities and Transporter shall provide, in the succeeding Month's statement, an adjustment based on any differences between actual quantities and estimated quantities. Any required invoice backup data will accompany the statement.

8.2 Shipper shall remit the full amount specified in the statement referred to in Section 8.1 on or before the later to occur of ten (10) Days after receipt of the statement by Shipper and the twenty-fifth (25th) Day of such Month, provided that if the Day the payment is due is not a Business Day, then the payment will be due on the next following Business Day. Shipper shall pay the full amount to Transporter in Canadian funds by electronic funds transfer to Transporter's bank account in Vancouver, British Columbia. If Shipper fails to make each such payment to Transporter when due, a late payment charge of 1 ½% of the outstanding amount or such other charge as may be approved by the BCUC for late payments under Transporter's General Terms and Conditions – Gas Sales from time to time shall be included in the bill rendered by Transporter to Shipper for such Month or alternatively any subsequent Month, as determined by Transporter.

- 8.3 In the event Shipper disputes any part of a statement delivered pursuant to Section 8.1, Shipper shall nevertheless pay to Transporter the full amount of such statement when payment is due.
- 8.4 Any bill rendered by Transporter to Shipper shall be final and binding unless notice of an error has been delivered by either Party to the other Party within the twelve (12) Month period following the end of the Year in which the statement was received by Shipper. The incorrect bill shall be corrected within thirty (30) Days following the receipt of the notice by the other Party.
- 8.5 If it is determined the Shipper has been overcharged or undercharged under the Service Agreement, then within thirty (30) days after the final determination thereof, Transporter shall refund the amount of any overcharge with interest at the rate specified in Section 8.2 from the date of payment of such overcharge to the date of refund. If such refund is made by a credit on a statement from Transporter to Shipper, the date of the refund shall be deemed to be the date on which the statement showing the credit was issued to Shipper by Transporter. Shipper shall pay the full amount of any undercharges, without interest, immediately upon the final determination thereof.
- 8.6 The provisions of this Article 8 shall survive the termination or expiration of each Service Agreement until Transporter or Shipper satisfies any obligations or liabilities that accrued prior to the date of termination of such Service Agreement.

ARTICLE 9 RIGHT OF SUSPENSION

- 9.1 If Shipper is more than fifteen (15) Business Days delinquent in the payment of any portion of the amount set forth in a statement delivered to Shipper pursuant to Section 8.1, then in addition to any other remedies Transporter may have, Transporter may thereafter suspend Service by giving such Shipper five (5) Business Days' prior written notice of suspension. Such Shipper shall have the right to pay the amount due to Transporter within such five (5) Business Day notice period to avoid the suspension of Service. Notwithstanding the suspension of Service pursuant to this section, such Shipper shall continue to be liable to Transporter for the amounts otherwise payable under the Service Agreement. If at any time, during such period of suspension such Shipper pays the full amount payable to Transporter, then Transporter will immediately recommence such suspended Service.
- 9.2 If Transporter has suspended Service to Shipper pursuant to Section 9.1, Transporter may, in addition to any other remedy that may be available to it, upon five (5) Business Days' notice to Shipper:
- (a) terminate any or all Service to Shipper; and
 - (b) declare a Critical Shipper Default and claim an amount equal to the Early Termination Charge to be immediately due and payable to Transporter as liquidated damages and not as a penalty.
- 9.3 In the event Transporter has given notice to Shipper under Section 9.2, Transporter shall be entitled to pursue any of the remedies against Shipper or, if applicable, Shipper's Guarantor, as set forth and described in Article 16.

**ARTICLE 10
RECEIPT AND DELIVERY PRESSURES**

- 10.1 Unless otherwise specified in the Service Agreement, Shipper shall deliver Gas to Transporter at the Receipt Points at a pressure of not less than 3100 kPa gauge.
- 10.2 Transporter shall deliver Shipper's Gas at the Delivery Point at no less than the minimum pressure as specified in the Service Agreement.

**ARTICLE 11
GAS QUALITY SPECIFICATIONS**

- 11.1 All Gas delivered by Shipper to Transporter at the Receipt Points and all Gas delivered by Transporter to Shipper at the Delivery Point shall conform to the following Gas quality specifications:
- (a) shall have a Gross Heating Value of no less than thirty-six (36) MJ/m³ and shall have a Gross Heating Value of not greater than forty-four (44) MJ/m³;
 - (b) shall be commercially free at prevailing pressure and temperature in Transporter's pipeline from sand, dust, gums, hydrocarbons liquefiable at temperature in excess of minus ten degrees Celsius (-10° C) and at the prevailing operating pressure, impurities, other objectionable substances which may become separated from the Gas, and other solids or liquids which will render it unmerchantable or cause injury to or interference with proper operation of the lines, regulators, meters or other facilities through which it flows; and shall not contain any substance not normally contained in Gas, other than traces of those materials and chemicals necessary for the transportation and delivery of the Gas and which do not cause it to fail to meet any of the quality specifications herein set forth;
 - (c) shall contain no more than 6 milligrams of hydrogen sulphide per cubic metre and no more than 23 milligrams of total sulphur per cubic metre of Gas, in each instance as determined by standard methods and testing;
 - (d) shall contain no more than two percent (2%) by volume of carbon dioxide;
 - (e) shall contain no more than sixty-five (65) milligrams of water vapour per cubic metre of Gas;
 - (f) shall not exceed a temperature of fifty degrees Celsius (50° C);
 - (g) shall be as free of oxygen as practicable and shall in any event contain no more than four tenths of one percent (0.4%) by volume of oxygen; and
 - (h) shall in no event, contain any mix of components that will cause the presence of any liquids in the Pipeline under normal operating conditions.
- 11.2 In the event gas tendered to Transporter by or on behalf of Shipper fails to meet the specifications in Article 11.1, Transporter may refuse to receive the gas, in which case, Transporter will as soon as possible inform the Shipper to allow Shipper to promptly remedy any deficiency in quality.

- 11.3 Transporter reserves the right to waive any or all of such gas quality provisions if it is determined by Transporter that such waiver can be granted without, in any way, jeopardizing the integrity of the Pipeline, or being adverse to the Shipper.

**ARTICLE 12
MEASUREMENT AND MEASUREMENT EQUIPMENT**

- 12.1 All Gas delivered by Shipper to Transporter at the Receipt Point(s) and all such Gas delivered by Transporter at the Delivery Point shall be measured using equipment owned and maintained by Transporter, or, in the sole discretion of Transporter, an upstream pipeline operator, as to both volume and Gross Heating Value, where Transporter's measurement practices and equipment standards are as follows:
- (a) A unit of volume for purpose of report shall be 10^3m^3 of Gas.
 - (b) The volume of the Gas received from Shipper shall be determined in accordance with the *Electricity and Gas Inspection Act* (Canada) and the Regulations thereunder.
 - (c) The absolute atmospheric pressure used for volume calculations shall be assumed to be a specific pressure determined by calculations based on the actual elevation above sea level at the site of the meter, regardless of variations in actual barometric pressure. The formula used to calculate the atmospheric pressure shall be in accordance with the methodology prescribed pursuant to the *Electricity and Gas Inspection Act* (Canada) and the Regulations thereunder.
 - (d) The determination of Gross Heating Value of Gas received or delivered shall be performed in a manner approved under the *Electricity and Gas Inspection Act* (Canada) and the Regulations thereunder or, if a manner for such determination is not set out in that Act, in accordance with industry accepted standards, and, in any event, in a manner to ensure that the Gross Heating Value so determined is representative of the Gas received or delivered at the Receipt or Delivery Point.
- 12.2 All meters and measuring equipment for the determination of volume, Gross Heating Value or relative density shall be approved pursuant to, and installed and maintained in accordance with, the *Electricity and Gas Inspection Act* (Canada) and the Regulations thereunder. Notwithstanding the foregoing, all installation of equipment applying to or effecting deliveries of Gas shall be made in a manner permitting accurate determination of the quantity of Gas delivered and ready verification of the accuracy of measurement. Care shall be exercised by Transporter and by Shipper in the installation, maintenance and operation of pressure regulating equipment so as to prevent any inaccuracy in the determination of the volume of Gas delivered under the Service Agreement.
- 12.3 Transporter shall verify the accuracy of its measuring equipment once each month or at such longer intervals as agreed to by the Parties. Transporter will verify the accuracy of measuring equipment whenever requested by Shipper, provided requests do not require verification more than once in any month. If upon a requested verification, the measuring equipment is found to be registering correctly (which shall include any inaccuracy of two percent (2%) or less as mentioned below), the cost of such requested verification shall be charged to and borne by the requesting Party; otherwise the cost of all requested verifications shall be borne by Transporter. If, upon any test, measuring equipment is found to be inaccurate but not by more than two percent (2%) then the previous readings of the equipment shall be corrected to zero error for any period which is known definitely or can be agreed upon, but if the

period is not known definitely or cannot be agreed upon, such corrections shall be for a period covering the last half of the time elapsed since the date of the last test.

ARTICLE 13

POSSESSION AND CONTROL OF GAS AND LIABILITY; REPRESENTATIONS, WARRANTIES AND COVENANTS

- 13.1 Transporter shall be deemed to be in possession and control of, and responsible for, all Gas received by it until such Gas is delivered by it as if it were the owner thereof. Without limiting the generality of the foregoing, Transporter shall have the right at all times to commingle such Gas with other Gas in the Pipeline. Gas delivered by Transporter shall have the quality that results from Gas having been transported and commingled in the Pipeline.
- 13.2 Each Party assumes full responsibility and liability for the maintenance and operation of its respective properties and shall indemnify and save harmless the other Party from all liability and expense on account of any and all damages, claims or actions, including injury to and death of persons, arising from any act or accident in connection with the installation, presence, maintenance and operation of the property and equipment of the indemnifying Party, or in connection with the presence of Gas deemed to be in the possession and control of the indemnifying Party.
- 13.3 Shipper represents, warrants and covenants to Transporter that Shipper will, at the time of tendering Gas to Transporter, have title to or right to tender all Gas tendered by Shipper or on its behalf to Transporter for transportation.
- 13.4 Transporter represents, warrants and covenants to Shipper that, at the time of delivery of Gas for Shipper's account, such Gas will be free and clear of all liens and encumbrances arising under or by virtue of Transporter.
- 13.5 Shipper shall indemnify Transporter and save Transporter harmless from and against all claims, actions or damages arising from any adverse claim by third parties claiming ownership or an interest in the Gas tendered to Transporter for transportation.
- 13.6 Subject to the provisions of Section 4.3, Transporter and Shipper shall indemnify each other and save each other harmless from and against all suits, actions, debts, accounts, damages, costs, losses and expenses arising out of the adverse claim of any Person or Persons for any taxes and assessments, licenses, fees, royalties or charges which are applicable prior to the time of delivery of such Gas to such other Party.

ARTICLE 14

AGENCY MATTERS

- 14.1 Shipper may appoint any third party to act as its nominating agent with authority for compliance with Transporter's nomination procedures pursuant to Article 3. Such appointment will be made by executing and delivering the nominating agency agreement in the form attached as Schedule B.

ARTICLE 15

FORCE MAJEURE

- 15.1 Subject to the provisions of Article 4 and Section 7.1 herein, neither Party shall be liable to the other Party if it is unable to perform its obligations, in whole or in part, under this Agreement when such inability is due to an event of Force Majeure. "Force Majeure" means any event or occurrence not within the control

of the Party claiming Force Majeure and which by the exercise of due diligence such Party is unable to prevent or overcome, including any acts of God (including epidemics, landslides, lightning, earthquakes, fires, storms, floods and washouts), civil disturbances, strikes, lockouts and other industrial disturbances, acts of the public's enemies (including sabotage, terrorism, wars, riots, blockades and insurrections), acts and restraints of any governmental body or authority, interruptions by government or court orders, present or future valid orders of any regulatory body having jurisdiction, explosions, breakage or accident to machinery or pipelines or freezing of pipelines, or obstructions of pipelines or appurtenances thereto, or inability to obtain materials or equipment, inability to obtain permits, orders, licenses, certificates or other authorizations, and any other cause, whether of the kind herein enumerated or otherwise, not within the control of the Party claiming Force Majeure and which by the exercise of due diligence such Party is unable to prevent or overcome, provided that in no event will a change in economic circumstances of an affected Party, a delay in settlement of disputes among two or more Parties, insolvency or a lack of finances, constitute Force Majeure.

- 15.2 Any causes or contingencies which entitle a Party to claim Force Majeure shall not relieve the Party of liability in the event it fails to use due diligence to remedy the situation and remove the cause of the claimed Force Majeure in an adequate manner and with all reasonable dispatch, nor shall such causes or contingencies relieve the Party of liability unless:
- (a) the Party gives notice to the other Party claiming Force Majeure relief under this Article 15 and setting out the full particulars of the claimed Force Majeure and its proposed course of action to remedy and overcome the claimed Force Majeure as soon as reasonably possible after the occurrence of the claimed Force Majeure; and
 - (b) the Party gives written notice to the other Party as soon as reasonably possible upon termination of the claimed Force Majeure, and promptly resumes performance of its obligations hereunder.
- 15.3 The settlement of strikes or lockouts shall be entirely within the discretion of the affected Party and the Parties agree that the requirement in Section 15.2 that any event of Force Majeure shall be remedied with the exercise of due diligence by the affected Party shall not require settlement of strikes or lockouts by acceding to the demands of opposing Persons when such course is inadvisable, in the sole discretion of the affected Party.

ARTICLE 16 DEFAULT AND TERMINATION

- 16.1 The occurrence and continuation of a material breach by Transporter of any of its obligations under the Service Agreement including these General Terms and Conditions, unless it occurs as a result of a breach by Shipper of its obligations, shall constitute a "*Transporter Default*".
- 16.2 The occurrence and continuation of a material breach by Shipper of any of its obligations under the Service Agreement including these General Terms and Conditions (other than those obligations which, if breached, would constitute a Critical Shipper Default under Section 16.5), unless it occurs as a result of a breach by Transporter of its obligations, shall constitute a "*Shipper Default*".
- 16.3 Upon the occurrence and continuation of a Transporter Default under Section 16.1 or a Shipper Default under Section 16.2, the non-defaulting Party shall, at its option, have the right to specific performance of the Service Agreement and/or to receive damages, as would be available under law by giving notice to the defaulting Party, and/or to terminate the Service Agreement in accordance with Section 16.4.

- 16.4 In the event of a Transporter Default or Shipper Default, then either Transporter (in the case of a Shipper Default) or Shipper (in the case of a Transporter Default) may thereafter terminate the Service Agreement by giving sixty (60) days' prior written notice of termination to the other Party; but if the default is cured within such notice period, then termination will not be effective.
- 16.5 The occurrence and continuation of any of the following events during the term of the Shipper's Service Agreement shall constitute a "*Critical Shipper Default*":
- (a) the Shipper or Shipper's Guarantor fails to pay or cause to be paid all or any portion of any amount(s) due and payable to Transporter under the Service Agreement, including these General Terms and Conditions, which failure or default remains outstanding for a period of thirty (30) Business Days after notice thereof is provided to Shipper and, if applicable, Shipper's Guarantor;
 - (b) the Shipper or Shipper's Guarantor fails to, or ceases to, meet any of the credit requirements under Article 17, including without limitation a Guarantee from Shipper's Guarantor, or if Shipper or Shipper's Guarantor fails to, or ceases to, provide Credit Support, as determined by Transporter from time to time, which failure or default remains outstanding for a period of five (5) Business Days after notice thereof is provided to Shipper and, if applicable, Shipper's Guarantor; or
 - (c) the Shipper or Shipper's Guarantor commits an act of bankruptcy or institutes proceedings for its winding up, liquidation or dissolution, or consents to the appointment of a monitor, receiver, liquidator, trustee or assignee in bankruptcy or insolvency of all or any material part of its assets, or makes an assignment for the benefit of creditors, or publicly announces or admits in writing its inability to pay its debts generally as they become due, or suspends or threatens to suspend transaction of all or any substantial part or its usual business, or any action is taken in furtherance of any of the foregoing.
- 16.6 Upon the occurrence and continuation of a "*Critical Shipper Default*" under section 16.5, or in the event of an uncured "*Shipper Default*" for which notice of termination has been given under section 16.4, Transporter shall, at its option, have the right to terminate the Service Agreement and declare the Early Termination Charge to be immediately due and payable by Shipper and, if applicable, its Guarantor as liquidated damages and not as a penalty.
- 16.7 Immediately after the Early Termination Charge is declared by Transporter to be due and payable hereunder, Transporter may take all such steps and exercise such remedies as may be permitted under the Service Agreement including these General Terms and Conditions, at law, or in equity to recover the full amount of the Early Termination Charge, including, without limitation, drawing down or calling upon the Credit Support or the Guarantee. The rights and remedies of Transporter arising from a Critical Shipper Default are cumulative and any single or partial exercise by Transporter of any right or remedy shall not be deemed to be a waiver of, or to alter, affect or prejudice any other rights or remedies to which Transporter may be entitled for the same default. Upon the occurrence of a Critical Shipper Default, Transporter may bring suit at law, in equity or otherwise, for any available relief or purpose, including but not limited to: (i) the specific performance of, or declaratory relief with respect to any covenant or agreement of Shipper or Shipper's Guarantor in the Service Agreement; or (ii) the recovery of judgment for any and all amounts due in respect of the Early Termination Charge.
- 16.8 If the Service Agreement is not sooner terminated pursuant to the provisions of these General Terms and Conditions, then it will terminate as provided for in the Service Agreement.

- 16.9 No termination of the Service Agreement, however affected, shall affect or extinguish any rights or obligations of the Parties which accrued prior to the date of termination or extinguish any remedies available to any Party at law, equity or as provided for herein.
- 16.10 No waiver by Transporter or Shipper of any one or more defaults by the other in the performance of any provisions of the Service Agreement shall operate or be construed as a waiver of any continuing or future default or defaults, whether similar in nature or not.

ARTICLE 17
CREDIT REQUIREMENTS

- 17.1 During the term of the Service Agreement, Shipper or, if applicable, its Guarantor, shall provide Credit Support, as set forth herein.
- 17.2 Shipper understands and agrees that at any time after the Effective Date, Shipper or, if applicable, its Guarantor ceases to be Creditworthy, Shipper shall provide to Transporter the requisite additional Credit Support within five (5) Business Days of the Shipper or, if applicable its Guarantor, ceasing to be Creditworthy.
- 17.3 Notwithstanding any provisions of the Service Agreement (including these General Terms and Conditions) to the contrary, if Shipper or Shipper's Guarantor: (i) ceases to be Creditworthy; or (ii) fails to provide Credit Support or, if applicable, the Guarantee; Transporter may, upon five (5) Business Days' notice, immediately suspend any or all Service to Shipper, provided that any such suspension shall not relieve Shipper from any obligation to pay the Demand Charge, or any other amount(s) payable under the Service Agreement.
- 17.4 If Shipper or Shipper's Guarantor ceases to be Creditworthy and fails to provide Credit Support or the Guarantee after it has been requested in accordance with Section 17.3, Transporter may, in addition to any other remedy that may be available to it, upon five (5) Business Days' notice:
- (i) terminate any or all Service to Shipper under the Service Agreement; and
 - (ii) declare an amount equal to the Early Termination Charge to be immediately due and payable to Transporter as liquidated damages and not as a penalty.
- 17.5 If Credit Support is provided pursuant to this Article 17 and Shipper is later Creditworthy, Transporter shall return to Shipper whatever form of additional Credit Support it then holds to secure Shipper's obligations hereunder.
- 17.6 Shipper and, if applicable, Guarantor shall furnish to Transporter, as soon as available, and, in any event, within one hundred and twenty (120) days after the end of each fiscal year of both of Shipper and guarantor, its audited consolidated financial statements setting forth in comparative form the corresponding figures of the preceding fiscal year together with an auditor's report thereon.
- 17.7 Shipper and, if applicable, Shipper's Guarantor shall give immediate notice to Transporter of the occurrence of any of the following events: (i) a credit rating downgrade; (ii) a negative change in credit outlook; or (iii) notification from a recognized rating agency that Shipper or Shipper's Guarantor will be placed on credit watch status. For the purposes of this Section 17.7, "change" shall include a pending or threatened change.

17.8 Notwithstanding the provisions of this Article 17, the credit requirements may be subject to more extensive conditions to support the development and construction, by Transporter, of required additional facilities for Transporter to meet its obligations to provide Service to Shipper under the Service Agreement. Such more extensive credit requirements, if any, will be specified by Transporter to Shipper following either agreement between Shipper and Transporter, or as directed by the BCUC. Such credit requirements may include the requirement for an Approved Letter of Credit not to exceed Shipper's pro rata share of the cost of the required additional facilities.

17.9 The following terms shall apply to Approved Letters of Credit received as Credit Support or pursuant to Section 17.8:

- (a) Shipper shall maintain and ensure the renewal of each outstanding Approved Letter of Credit on a timely basis to ensure the Credit Support and any additional credit requirements are provided to Transporter at all times;**
- (b) if the financial institution issuing an Approved Letter of Credit has indicated its intention not to renew such Approved Letter of Credit, Shipper shall provide a substitute or replacement Approved Letter of Credit at least thirty (30) Days prior to the expiration of the outstanding Approved Letter of Credit; and**
- (c) a failure by a financial institution issuing an Approved Letter of Credit to honour Transporter's properly documented request to draw on the outstanding Approved Letter of Credit shall be deemed to constitute a Critical Shipper Default within the meaning given this term in Section 16.5.**

**ARTICLE 18
LIABILITY AND LIMITATION OF LIABILITY**

18.1 Transporter's and Shipper's liability to each other is limited to direct damages only. In no event, other than for gross negligence or willful default, shall either Transporter or Shipper be liable for loss of profits, consequential, incidental, punitive, or indirect damages, in tort, contract or otherwise.

**ARTICLE 19
MISCELLANEOUS**

19.1 Each Service Agreement that adopts these General Terms and Conditions shall also agree to or have articles such that:

- (a) No waiver by either pParty of any default by the other in the performance of any of the provisions of a Service Agreement shall operate or be construed as a waiver of any other or future default or defaults, whether of a like or a different character.
- (b) Either pParty may assign its rights under a Service Agreement subject to the written consent of the non-assigning pParty, such consent not to be unreasonably withheld.
- (c) Nothing in a Service Agreement or herein shall prevent any of the pParties from pledging or mortgaging its rights under a Service Agreement as security for its indebtedness.

- (d) A Service Agreement shall enure to the benefit of and be binding upon the ~~P~~Parties thereto and their respective successors and permitted assigns.
- (e) A Service Agreement together with these General Terms and Conditions and Transporter's Toll Schedules for Service incorporated therein by reference, constitutes the entire agreement between the ~~P~~Parties and supersedes all previous agreements, understandings, negotiations and representations between the ~~P~~Parties.
- (f) No amendment or variation of a Service Agreement shall be effective or binding upon the ~~P~~Parties unless such amendment is set forth in writing and duly executed by the ~~P~~Parties thereto.
- (g) If any provision or provisions of a Service Agreement be determined by a court of competent jurisdiction to be illegal or not enforceable, it or they shall be considered separate and divisible from a Service Agreement and the remaining provisions of a Service Agreement shall remain in force and be binding upon the ~~P~~Parties as though the illegal or unenforceable provision or provisions had never been included.
- (h) A Service Agreement and the rights and obligations of the ~~P~~Parties are subject to all present and future laws, rules, regulations and orders of any legislative body, government agency or duly constituted authority now or hereafter having jurisdiction over the ~~P~~Parties.
- (i) A Service Agreement shall be construed in accordance with the laws of British Columbia.

SCHEDULE A

FORM OF GUARANTEE

THIS GUARANTEE (this “**Guarantee**”), dated <@>, is issued and delivered by _____ and _____ (collectively, the “**Guarantor**”), for the account of <@> {insert name of Shipper} (the “**Obligor**”), and for the benefit of Pacific Northern Gas Ltd. (the “**Beneficiary**”).

Background Statement

In connection with the Service Agreement for Firm Transportation Service between the Beneficiary and the Obligor dated <@> (as it may be amended or otherwise modified from time to time hereafter in accordance with Section 2 below, (the “**Agreement**”), the Obligor has requested that the Guarantor deliver to the Beneficiary this Guarantee.

NOW THEREFORE, in consideration of the foregoing and for other good and valuable consideration, receipt of which is hereby acknowledged by all parties hereto, the Guarantor and the Beneficiary hereby agree as follows:

1. **Guarantee.** Upon the terms set forth in this Guarantee, the Guarantor hereby guarantees to the Beneficiary the timely performance when due of all of the Obligor’s payment obligations under the Agreement, including, without limitation, the obligation to pay the Early Termination Charge (the “**Guaranteed Obligations**”).

Subject to the other terms of this Guarantee, the liability of the Guarantor under this Guarantee is limited to payment and performance of the Guaranteed Obligations. Except as may specifically be provided in the Agreement in respect of the Guaranteed Obligations, the Guarantor shall not be liable for or required to pay any consequential or indirect loss (including but not limited to loss of profits), exemplary damages, punitive damages, special damages, or any other damages or costs. For clarity with respect to the foregoing limitation of liability, the Guarantor and Beneficiary acknowledge and agree that it is the intent of this Guarantee that no law, theory or public policy be given effect which would undermine, diminish or reduce the effectiveness of the waiver of damages provided in the preceding sentence, and the Guarantor and the Beneficiary further agree that such waiver shall be given the fullest effect, notwithstanding the negligence (whether sole, joint, or concurrent), gross negligence, willful misconduct, strict liability or other legal fault of the Guarantor.

2. **Effect of Amendments.** The Guarantor agrees that the Beneficiary and the Obligor may amend or otherwise modify the Agreement from time to time hereafter, and that the Beneficiary may delay or extend the date on which any payment must be made by the Obligor pursuant to the Agreement or delay or extend the date on which any act must be performed by the Obligor under the Agreement, all without notice to or further assent by the Guarantor, who shall remain bound by this Guarantee notwithstanding any such act by the Beneficiary or the Obligor.

3. **Waiver of Rights; Reservation of Rights of the Obligor.** The Guarantor expressly waives (i) protest, (ii) notice of default by the Obligor or any other person or entity, (iii) notice of acceptance of this Guarantee by the Beneficiary, (iv) demand on the Obligor or any other person or entity for payment of any of the Guaranteed Obligations, and (v) the right to require that a judgment have been previously rendered against the Obligor or any other person or entity, or that the Obligor or any other person or entity be joined in any action against the Guarantor. Without limiting the Guarantor’s own defences and rights hereunder, the Guarantor reserves to itself all rights, setoffs, counterclaims and other defences that the Obligor may have to payment of all or any portion of the Guaranteed Obligations except defences arising from the bankruptcy, insolvency, dissolution or liquidation of the Obligor and other defences expressly waived in this Guarantee.

4. **Primary Liability of the Guarantor.** The Guarantor agrees that the Beneficiary may enforce this Guarantee without the necessity at any time of resorting to or exhausting any other security or collateral. This Guarantee is a continuing guarantee of payment and not merely of collection.
5. **Guarantee Absolute and Unconditional.** The obligations of the Guarantor under this Guarantee shall be absolute and unconditional, shall not be subject to any counterclaim, set-off, deduction or defence based upon any claim the Guarantor may have against the Beneficiary or any other person or entity, whether in connection with this Guarantee or any other transaction, and shall remain in full force and effect without regard to, and shall not be released, discharged or in any way affected or impaired by any occurrence, matter, circumstance or condition whatsoever (whether or not the Guarantor has any knowledge or notice thereof or has consented thereto), other than the complete payment and performance of the Guaranteed Obligations.
6. **Default by Guarantor.** If default is made in the performance of or compliance with the Guaranteed Obligations, the Guarantor will also pay to the Beneficiary such amounts as shall be sufficient to pay the costs and expenses of collection of or of otherwise enforcing any of the rights of the Beneficiary under this Guarantee or otherwise (including legal fees and disbursements as actually incurred by the Beneficiary).
7. **Term of Guarantee.** This Guarantee and the rights and obligations hereunder shall terminate and be of no further force or effect (and no party hereto shall have any further liability hereunder) upon termination of the Agreement, provided that the Guarantor shall remain liable hereunder for Guaranteed Obligations that arise prior to the termination of the Agreement.
8. **Demand.** If the Obligor shall fail to pay or cause to be paid all or any portion of the Guaranteed Obligations as and when the same shall become due and payable pursuant to the Agreement or otherwise, then the Beneficiary shall be entitled, by notice to the Guarantor, to make a demand upon the Guarantor for the payment of the Guaranteed Obligations or that portion thereof which the Obligor has failed to pay. The Guaranteed Obligations or any portion thereof in respect of which demand shall have been made pursuant hereto shall become immediately due and payable by the Guarantor under this Guarantee upon such demand for payment being made. If the Guarantor fails to make each such payment to Transporter when due, a late payment charge of 1 ½% of the outstanding amount or such other charge as may be approved by the BCUC for late payments under Transporter's General Terms and Conditions – Industrial Transportation Service from time to time shall be included in the bill rendered by Transporter in respect of the Guaranteed Obligations or that portion thereof which the Guarantor has failed to pay to Guarantor for such Month or alternatively any subsequent Month, as determined by Transporter.
9. **Remedies.** The Beneficiary may, at its option, proceed against the Guarantor under this Guarantee to enforce any of the Guaranteed Obligations when due without first proceeding against the Obligor or any other person or entity and without first resorting to any direct or indirect security, any other guarantee, or any other remedy. The Guarantor hereby unconditionally waives diligence, presentment, demand for payment, protest and all notices whatsoever, renounces the benefit of division and discussion, and unconditionally waives any requirement that the Beneficiary exhaust any right, power or remedy against the Obligor or the Guarantor under the Agreement, any other guarantee or any other agreement or instrument referred to herein or therein, or against any other person or entity under any other guarantee of, or security for, any of the Guaranteed Obligations, before proceeding against the Guarantor under this Guarantee. The Guarantor hereby waives any duty on the part of the Beneficiary to disclose to the Guarantor anything which the Beneficiary may now or hereafter know concerning the Obligor, any other person or any other matter whatsoever, even if the Beneficiary has reason to believe any such information materially increases the risk beyond that which the Guarantor intends to assume hereunder.

10. **Set-Off.** Following a demand by the Beneficiary pursuant to Section 8 of this Guarantee, the Beneficiary may at any time set-off and apply any deposits (general or special, time or demand, provisional or final) for other indebtedness owing by the Guarantor to or for the credit of the Beneficiary against any and all of the Guaranteed Obligations, and the Beneficiary shall promptly notify the Guarantor of any such set-off or application, provided that the failure to do so shall not affect the validity thereof. The rights of the Beneficiary under this Section 10 are in addition to any other rights and remedies, including any other rights of set-off, that the Beneficiary may have.

11. **Representations.** Each party comprising the Guarantor hereby represents and warrants that: (i) it is a _____ duly formed, validly existing and in good standing under the laws of its jurisdiction of formation; (ii) it has the power and authority to execute, deliver and perform this Guarantee under its formation documents; (iii) the execution, delivery and performance by it of this Guarantee have been duly authorized by all requisite corporate, partnership, limited liability company, or other legal entity action; (iv) this Guarantee constitutes a legal, valid and binding obligation of the Guarantor, enforceable against the Guarantor in accordance with its terms; (v) the execution, delivery and performance by the Guarantor of this Guarantee will not violate, conflict with or result in a breach of, any material provisions of any of the terms and conditions of its formation documents, any material agreement to which it is a party, or any order binding on it, except in each case, to the extent such violation, conflict or breach would not have a material adverse effect on its ability to perform its obligations under this Guarantee; and (vi) the Guarantor will (directly or indirectly) benefit from the transactions contemplated in the Agreement.

12. **Subrogation.** The Guarantor shall be subrogated to all rights of the Beneficiary against the Obligor in respect of any amounts paid by the Guarantor pursuant to this Guarantee; provided, however, until all of the Obligor's payment obligations under the Agreement have been paid in full, (i) the Guarantor shall have no right of subrogation in respect of any amounts paid by the Guarantor pursuant to this Guarantee, and (ii) the Guarantor hereby waives and agrees not to assert any right to enforce by way of subrogation any remedy which the Beneficiary now has or may hereafter have against the Obligor.

13. **Notice of Default.** The Beneficiary shall provide prompt written notice to the Guarantor if the Obligor defaults under the Agreement with respect to any Guaranteed Obligation; provided that any failure by the Beneficiary to so notify the Guarantor shall not relieve the Guarantor from performing its obligations under this Guarantee.

14. **Governing Law.** This Guarantee shall be governed by and construed in accordance with the laws of the Province of British Columbia and the federal laws of Canada applicable therein, excluding such conflict of laws doctrines as may cause the laws of some other jurisdiction to apply.

15. **Dispute Resolution.** All disputes arising out of or in connection with this Guarantee, or in respect of any defined legal relationship associated therewith or derived therefrom, shall be resolved by legal proceedings through the British Columbia courts system, and the parties hereby submit to the exclusive jurisdiction of any British Columbia court of competent jurisdiction and agree that all documents commencing an action for legal proceedings arising out of or relating to this Guarantee shall be issued or filed at the clerk's office in the judicial centre of Vancouver and agree further that such courts shall be the exclusive forum for resolving any dispute or controversy under or with respect to this Guarantee.

16. **Entire Agreement; Acceptance; Amendments.** This Guarantee integrates all of the terms and conditions mentioned herein or incidental hereto and supersedes all oral negotiations and prior writings in respect to the subject matter hereof. By acceptance of this Guarantee, the Beneficiary agrees to be bound by the terms and provisions hereof. This Guarantee may only be amended or modified by an instrument in writing signed by each of the Guarantor and the Beneficiary.

17. **Headings.** The headings of the various Sections of this Guarantee are for convenience of reference only and shall not modify, define or limit any of the terms or provisions hereof.

18. **No Third-Party Beneficiary.** This Guarantee is given by the Guarantor solely for the benefit of the Beneficiary, and may not be relied upon by any other person or entity, except any lenders to the Beneficiary who may from time to time request that the Guarantor provide them with written acknowledgments of the existence and enforceability of this Guarantee.

19. **Assignment.** Neither the Guarantor nor the Beneficiary may assign its rights or obligations under this Guarantee without the prior written consent of the other, except that the Beneficiary may, upon thirty (30) days prior written notice, make an assignment of all of its rights and obligations under this Guarantee without such consent in conjunction with the assignment by the Beneficiary of all of its rights and obligations under the Agreement, provided that such assignment is expressly permitted under the Agreement. Any purported assignment in violation of this Section 19 shall be null and void and of no force or effect.

20. **Notices.** All notices, demands and requests hereunder by a party hereto to another party hereto shall be in writing, and shall be delivered by hand, by nationally recognized overnight courier, by facsimile, or by registered or certified mail, return receipt requested, first class postage prepaid, addressed as specified for each party below in this Section 20. The day on which such notice, demand or request is received by such other party shall be the date of delivery; provided that a notice given in accordance with this Section 20 but received on any day other than a business day, or after business hours in the place of receipt, shall be deemed to be received on the next business day in that place. A party may change its address or facsimile number specified for notices herein by designating a new address or facsimile number for notices by notice to the other party in accordance with this Section 20.

If to the Guarantor, at:

If to the Beneficiary, at:

21. **No Waivers, Remedies.** No failure on the part of the Beneficiary to exercise, and no delay in exercising, any right under this Guarantee shall operate as a waiver thereof, nor shall any single or partial exercise of any right under this Guarantee preclude any other or further exercise thereof or the exercise of any other right, nor shall any waiver of one provision be deemed to constitute a waiver of any other provision (whether or not similar). No waiver of any of the provisions of this Guarantee shall be effective unless it is in writing duly executed by the waiving party. The remedies herein provided are cumulative and not exclusive of any other remedies provided by law.

22. **Time of Essence.** Time shall be of the essence hereof.

23. **Joint and Several Liability.** If the Guarantor is comprised of more than one party, notwithstanding any provisions herein to the contrary, the liability under this Guarantee of each party constituting the Guarantor shall be joint and several.

IN WITNESS WHEREOF, the Guarantor has executed this Guarantee as of the day and year first above written.

The Guarantor:

By: _____

By: _____

SCHEDULE B**FORM OF NOMINATING AGENCY AGREEMENT****Agency Appointment for Service Agreements**

_____ (the "Shipper") requests that _____ (the "Nominating Agent") be appointed to take responsibility on behalf of the Shipper for compliance with the nomination procedures in Article 3 of Transporter's General Terms and Conditions which form part of the Service Agreement dated _____ between Shipper and Transporter (the "Service Agreement"). The agent will have all the power and authority required to perform all nominating functions necessary in relation to the Agent's authority on behalf of Shipper. Further, Shipper agrees that Transporter has full authority to deal with the Agent with respect to all nominating matters relating to the Agent's authority as if dealing direct with the Shipper.

Notwithstanding this agency appointment, nothing in this agreement shall diminish or relieve the Shipper of the responsibility to ensure compliance with contractual obligations to Transporter pursuant to the Service Agreement. Shipper hereby agrees to indemnify and save harmless Transporter from any losses, demands, claims, costs or expenses that it may incur or that may arise due to Transporter's reliance upon the Agent's authority.

The parties further agree that the Agent accepts full responsibility to comply with requests from Transporter in relation to those matters within the scope of this agreement's authority, more specifically set out above.

This appointment of Agent shall be effective on _____ and shall remain in effect until the earlier of:

- 1) upon one (1) day's written notice of termination of the agency appointment is received by Transporter from Shipper;
- 2) upon one (1) day's written notice is provided by Transporter to Shipper terminating the Agent's appointment due to default; or
- 3) the termination of the Service Agreement.

This Agency Agreement shall be governed by and construed in accordance with the laws of the Province of British Columbia. Nothing herein contained shall release Shipper from any of its obligations, agreements, covenants, representations or warranties contained in the Service Agreement.

I/we the signatories on behalf of the Shipper, hereby confirm and warrant in favour of Transporter the I/we have authority to execute this agreement on behalf of Shipper.

[Shipper] _____

Per: _____

Name:

Title:

[Agent] _____

Per: _____

Name:

Title:

Agreed and accepted the ____ day of _____, 20 __.

Pacific Northern Gas Ltd.

Per: _____

Name:

Title: