

August 16, 2011

Ontario Energy Board
2300 Yonge Street
Suite 2700
Toronto, Ontario
M4P 1E4

Attention: Ms. Kirsten Walli, Board Secretary

Re: EB-2011-0294 - T3 Contract Between Union Gas Limited and The Corporation of the City of Kitchener

Dear Ms. Walli:

Enclosed is an application to the Board under Section 39(2) of the Ontario Energy Board Act for approval of the parties to, the period of, and the space for storage that is the subject of a T3 Contract between Union Gas Limited ("Union") and The Corporation of the City of Kitchener ("Kitchener") located in Kitchener, Ontario.

Union and Kitchener have entered into a five-year T3 Contract at cost-based rates effective April 1, 2011. The agreement is for storage space and associated deliverability of 3,051,188 GJ. The storage and deliverability parameters were determined using the Board-approved methodologies (EB-2007-0725).

Union requests that the commercial terms be held in confidence as per Rule 10 of the Ontario Energy Board "Rules of Practice and Procedure". The reason for this request is that the contract contains information that is commercially sensitive, and may harm both the customer's and Union's competitive position in the marketplace and their ability to fairly conduct business. The version of the long-term T3 Contract that has been attached in Appendix A removes any customer-specific details. The full contract has been provided to the Board in confidence under separate cover.

If you have any questions or concerns with this application, please do not hesitate to contact me at (519) 436-5476.

Yours truly,

[original signed by]

Chris Ripley
Manager, Regulatory Applications

cc: Mr. Jim Gruenbauer, City of Kitchener

IN THE MATTER OF the Ontario Energy Board Act,
Chapter 15 Statutes of Ontario, 1998, Section 39(2);

AND IN THE MATTER OF an Application by Union
Gas Limited to the Ontario Energy Board for approval of
the parties to, the period of, and the space for storage that is
the subject of the T3 Carriage Service Contract between
Union Gas Limited and The Corporation of the City of
Kitchener.

- APPLICATION -

1. Union Gas Limited (“Union”) is a regulated public utility incorporated under the laws of the Province of Ontario with Head Office in the municipality of Chatham-Kent.
2. Union owns and operates underground gas storage reservoirs in the Province of Ontario.
3. The Corporation of the City of Kitchener (“Kitchener”) is a company duly incorporated under the laws of the Province of Ontario.
4. Union requests that the Board approve, without a hearing, the parties to, the period of, and the space for storage that is the subject of a T3 Contract.
5. The T3 Contract, attached as Appendix A, provides for 3,051,188 GJ of firm storage space and deliverability to Kitchener from April 1, 2011 to March 31, 2016.
6. The storage space and associated deliverability were determined in accordance with the Board-approved Aggregate Excess methodology (EB-2007-0725).
7. The only parties affected by this application are Union and Kitchener. The availability of this service does not affect other parties.

Dated at Chatham this 16 day of August, 2011

UNION GAS LIMITED

[original signed by]

Mr. Chris Ripley
Manager, Regulatory Applications

Comments regarding this Application should be directed to:

Mr. Dan Jones
Assistant General Counsel
Union Gas Limited

P.O. Box 2001
50 Keil Drive North
Chatham, Ontario
N7M 5M1

Tel: (519) 436-5396
Fax: (519) 436-5218

Mr. Chris Ripley
Manager, Regulatory Applications
Union Gas Limited

P.O. Box 2001
50 Keil Drive North
Chatham, Ontario
N7M 5M1

Tel: (519) 436-5476
Fax: (519) 436-4641

Appendix A

Contract ID	SA3863
Contract	KITCHENER CITY
DUNS#	

T3 CONTRACT

This GAS STORAGE AND DISTRIBUTION CONTRACT ("**Contract**"), made as of the 1st day of April, 2011

BETWEEN:

UNION GAS LIMITED
hereinafter called "**Union**"

- and -

The Corporation of the City of Kitchener
hereinafter called "**Customer**"

WHEREAS, Customer has requested Union and Union has agreed to provide Customer Services;

AND WHEREAS, Union will deliver Customer-owned Gas to Customer's Point(s) of Consumption or storage under this Contract pursuant to the T3 Rate Schedule;

NOW THEREFORE in consideration of the mutual covenants contained herein, the exchange of one (\$1.00) dollar and other good and valuable consideration, the receipt and sufficiency of which is hereby conclusively acknowledged by each of the parties hereto, the parties hereby agree as follows:

1 ATTACHMENTS

The following are hereby incorporated in and form part of this Contract:

- a) DCQ, Storage and Distribution Services Parameters Rate T3 contained in Schedule 1;
- b) Market-priced storage and deliverability parameters contained in Schedule 1a;
- c) Union's specific Service terms and conditions contained in Schedule 2 as amended from time to time in accordance with the procedure in the General Terms and Conditions (the "**GT&C**"); and
- d) Union's General Terms and Conditions.

For the purposes of this Contract, "**Point(s) of Receipt**" shall mean those points identified in Schedule 1 where Union may receive Gas from Customer.

2 PRELIMINARY AND CONTINUING CONDITIONS

This Contract and the rights and obligations of the Parties hereunder shall be conditional upon the fulfillment and maintenance in good standing of the following conditions:

- a) If required under the General Terms and Conditions financial assurances shall be supplied to and maintained with Union; and
- b) Union shall have received all required OEB approvals.

The above conditions must be initially satisfied by Customer and Union 25 days prior to the Day of First Delivery.

3 CONTRACT TERM

This Contract shall be effective from the date hereof. However, the Service, obligations, terms and conditions hereunder, shall commence on the Day of First Delivery. Subject to the provisions hereof, this Contract shall continue in full force and effect until the 31st day of March, 2016 and thereafter the Contract shall continue from Year to Year, with a review of the appropriateness of the parameters contained in Schedule 1 whereby such parameters may be changed as agreed by Union and Customer and made effective by an amended Schedule 1, unless Notice to terminate is provided by either Union or Customer. Such Notice must be delivered at least three (3) months prior to the end of a Contract Year.

4 SERVICES PROVIDED

Union agrees to provide Storage Services and Delivery Services as specified in Schedule 1. To be eligible for these services, Customer must have forecasted annual natural gas consumption of 700,000 m3 or greater. If Customer does not maintain this level of consumption during the current Contract Year or is not expected to maintain this level of consumption then, effective the following Contract Year, Customer will be placed on the applicable OEB-approved distributor service.

5 RATES FOR SERVICE

Customer agrees to pay for Services herein pursuant to the terms and conditions of the following:

- a) The Rate Schedules R1, T3 and Schedule "A" as they may be amended from time to time by the Ontario Energy Board; and
- b) This Contract and the attachments hereto.

6. FIRM DAILY CONTRACT DEMAND

The Firm Contract Demand ("CD") is as specified in Schedule 1. On any Day that the Customer uses more than 100% of its CD, but not greater than 103% of its CD, the Customer shall be invoiced and shall pay for this extra use at the delivery commodity rate as specified in the T3 Rate Schedule.

6.01 CD Increases During Contract Year

In addition to the above, the first Day in each Contract Year that the Customer uses more than 103% of its CD ("**First Occurrence**") shall be recorded. The second Day in each Contract Year that the Customer uses more than 103% of its CD ("**Second Occurrence**"), Customer's CD shall be immediately and retroactively increased as of the 1st day of the month in which this Second

Occurrence happens to the higher of the quantity used on the First Occurrence or the Second Occurrence. The Customer charges will reflect the increased CD. The Customer will not be invoiced overrun charges for the month in which the CD has been increased, unless there is another overrun above the said increased CD.

6.02 Subsequent CD Increased During Contract Year

After the CD has been increased and anytime thereafter that it has been increased, pursuant to the immediately preceding terms, the next day that the Customer uses more than 103% of the increased CD within the same Contract Year, it shall be deemed to be the First Occurrence for the purposes of Section 6.01, and the next time thereafter that the Customer uses more than 103% of its CD within the same Contract Year, it shall be deemed to be the Second Occurrence for the purpose of Section 6.01. For greater clarity, every time the CD is increased in a Contract year, the occurrence number is set back to zero and thereafter if two more occurrences happen the CD will again be raised, and so on for the remainder of the Contract Year. At the beginning of each Contract Year any outstanding First Occurrence will be waived.

7 NOTICES

Notices shall be delivered pursuant to the Notice provision of the General Terms and Conditions and delivered to the addresses as referenced in Schedule 1.

8 ARBITRATION

In the event of a dispute arising out of or connected with this Contract, before either party may submit the dispute to arbitration, the disputing party shall first provide written Notice to the other party of the particulars of the dispute, following which the parties shall use all commercially reasonable efforts to resolve the dispute amicably, promptly and in good faith.

If a dispute has not been resolved within ten (10) Business Days of the receipt of the written Notice previously referred to then the dispute shall be settled under the provisions of the Arbitration Act, 1991, S.O. 1991, c-17, as amended, by three arbitrators. Each party shall appoint one arbitrator and the two arbitrators so chosen shall appoint a third. The arbitration shall take place in Toronto. The decision of the arbitrators shall be final and binding, and from which there shall be no appeal. The arbitrators shall be bound by the terms of this Contract and may not detract from them or add to its terms. The arbitrators are also bound by all the applicable Ontario Energy Board Orders and the Ontario Energy Board Act, 1998 (the "OEB Act") and cannot detract or contradict said orders or the OEB Act. The parties may, by mutual agreement, specify the rules that are to govern the arbitration and limit the matters to be considered.

9 INDEMNIFICATION OF CUSTOMER DELIVERY OBLIGATIONS

Customer acknowledges that it is aware of the obligations assumed by a distributor of natural gas pursuant to various provincial statutes. In the event of termination of service by Customer to its customers for any reason Customer will indemnify, keep indemnified and save Union harmless from and against any and all claims, actions or proceedings resulting from such termination.

10 RE-NEGOTIATION

If an event occurs or circumstances arise (the “**Event**”) of a nature, including but not limited to governmental or regulatory action, affecting a party (the “**Proposer**”) which relates to any of the parameters of the Contract and which was not reasonably foreseeable at the time this Contract was executed or within the control of the Proposer and which was not provided for in the Contract, the effect of which is, in the opinion of the Proposer, to render their further performance of their obligations under this Contract unduly onerous, the Proposer may request from the other party (the “**Recipient**”) the opportunity to re-negotiate or amend that term of the Contract affected by the Event. If the Recipient agrees that the Event has created an undue hardship upon the Proposer, the parties agree to re-negotiate or amend the Contract. Until such time as any amendments have been agreed to, or OEB approval has been obtained (if necessary), the Contract shall remain in full force and effect. If the Recipient does not agree that the Event has created undue hardship the Contract will not be amended and shall remain in full force and effect.

11 MINIMUM DELIVERY PRESSURE

Pursuant to Section 5 of Schedule 1, Union is obligated to deliver natural gas to Customer at a minimum gauge pressure equal to **████** kPa (**████** psi) (“**Minimum Delivery Pressure**”) at the Point of Consumption. Union will continue to deliver natural gas to Customer at pressures above the Minimum Delivery Pressure on any Day when Union determines in its sole discretion that it is able to do so. The parties acknowledge and agree that executing this Contract does not prejudice the position of either party related to the Minimum Delivery Pressure or restrict in any way Customer’s right to initiate a review and seek appropriate contractual, regulatory and/or commercial remedies either through a commercially available process or through an Ontario Energy Board process.

12 RELIEF FROM OBLIGATIONS

When Customer has contracted for firm transportation capacity from Union to meet delivery obligations at the Receipt Points specified in Schedule 1 and to the extent that Union partially or wholly curtails the firm transportation under the transportation contract for any reason, including reasons of Force Majeure or for scheduled maintenance, then Union agrees to relieve Customer from its obligation to deliver Gas to Parkway under this Contract. Such relief shall be limited to the amount of Customer’s firm transportation capacity contracted from Union and actually curtailed and limited to the duration of such curtailment.

13 ENERGY CONVERSION

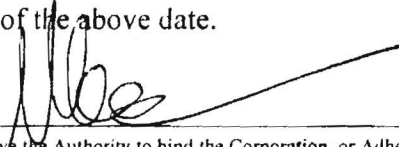
For the purposes of energy conversion, Union shall use the heat value measured at Union’s Kirkwall metering station.

14 CONTRACT SUCCESSION

This Contract replaces all previous Gas Storage and Distribution Contracts, subject to settlement of any Surviving Obligations.

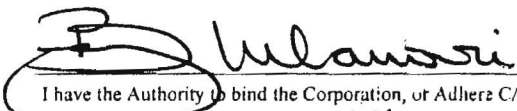
The undersigned execute this Contract as of the above date.

UNION GAS LIMITED


I have the Authority to bind the Corporation, or Adhere C/S, if applicable

Please Print Name

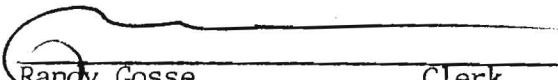
CUSTOMER


I have the Authority to bind the Corporation, or Adhere C/S, if applicable

Acting Mayor



Please Print Name


Randy Gosse Clerk

Contract	3863
Contract	KITCHENER CITY
DUNS#	

Schedule 1
DCQ, Storage and Distribution Services Parameters
Rate F3

1 DATES

"Day of First Delivery" means the 1st day of April, 2011.

This Schedule is effective the 1st day of April, 2011.

The Contract Term shall expire at the end of March, 2016.

2 DAILY CONTRACT QUANTITY (DCQ)*

Upstream Point(s) of Receipt (GJ per Day)

Location	Obligated DCQ	Timeframe
Empress	████	April 1 – March 31

Ontario Point(s) of Receipt (GJ per Day)

Location	Obligated DCQ*	Timeframe (for each Year of the Contract Term)
Parkway	████	Summer: April 1 – October 31 (minimum)**
Parkway	████	Winter: November 1 – March 31 (also Summer maximum)

* Obligated DCQ does not include Compressor Fuel.

** Obligated DCQ at Parkway from April 1 – March 31 will normally be █████ GJ/day. The actual Obligated DCQ will be set, for the term April 1 – October 31 of each Year in the Contract Term, between █████ GJ/day and █████ GJ/day in agreement between the parties.

3 SUPPLY OF COMPRESSOR FUEL

Customer shall supply compressor fuel for Union's distribution and storage services.

4 STORAGE PARAMETERS

Parameter	Amount	Unit of Measure	Timeframe
Firm Storage Space	3,051,188	GJ	April 1, 2011 – March 31, 2016
Firm Injection/Withdrawal Right (Union provides deliverability inventory)	56,610	GJ per Day	April 1, 2011 – March 31, 2016
Firm Injection/Withdrawal Right (Customer provides deliverability inventory)	56,610	GJ per Day	April 2, 2011 – March 31, 2016

5 DISTRIBUTION PARAMETERS

Point(s) of Consumption

	A	B	C	D
Location	Plains Rd., Lt 9, Kitchener	Hallman Rd., Kitchener	Hallman Rd., Kitchener	
Union Meter Number	00500145	00999948	00999988	

	Unit of Measure	Point(s) of Consumption			
		A	B	C	D
Firm Daily Contract Demand (CD):	m ³ /Day				
Maximum Hourly Volume	m ³ /hour				
Minimum Gauge Pressure	kPa				

Rate Parameters

	Unit of Measure	Point(s) of Consumption			
		A	B	C	D
Monthly Demand Charge	cents per m ³	As per T3 Rate Schedule			
Firm Commodity Charge	cents per m ³	As per T3 Rate Schedule			

On any Day, any Gas in excess of 103% of the Contract Demand shall be unauthorized overrun Gas, and shall be paid for at the rate specified in the Rate Schedule.

In the event Customer uses Gas in excess of 103% of the Contract Demand, the Contract Demand will be increased in accordance with Sections 6.01 and 6.02 of this Contract.

The parties agree that any reference to Transportation Service in the Rate Schedule shall include the Distribution Parameters as set out in this Schedule 1.

On any Day during the Contract Year, Gas usage shall be deemed as follows:

First gas used	Firm Gas up to the Firm Contract Demand then in effect.
Next gas used	Interruptible Gas (if applicable) up to the Interruptible Contract Demand then in effect.
Overrun gas	As specified in this Section.

6. CONTACT LIST FOR NOTICES

Notices for Nomination Matters

Samantha Meneguzzi
Supervisor Client Accounting, ECNG Ltd.
5575 North Service Rd., Suite 400, Burlington ON
Phone: 905-635-3283
Fax: 905-635-3298

Union Gas Limited
Manager, Gas Management Services
50 Keil Dr N, Chatham Ontario N7M 5M1
Phone: 519-436-4545
Fax: 519-436-4635

Notices for Invoices and Payments

Loraine Baillargeon
Manager, Asset Optimization
200 King St. W., Kitchener, ON N2G 4G7
Phone: 519-741-2532 *2600 Ext 4532*
Fax: 519-741-2633

Union Gas Limited
Manager, Contract Billing and Operational Support
50 Keil Dr N, Chatham Ontario N7M 5M1
Phone: 519-352-3100
Fax: 519-436-4645

Notices for Force Majeure

	Point(s) of Consumption			
	A	B	C	D
Customer Name	Samantha Meneguzzi			
Position Title	Supervisor Client Accounting, ECNG Ltd.			
Phone	Phone: 905-635-3283			
Fax	Fax: 905-635-3298			

Notices for All other Matters

Jim Gruenbauer
Manager, Regulatory Affairs and Supply
200 King St. W., Kitchener, ON N2G 4G7
Phone: 519-741-3400 *Ext 3255 2600 Ext 4255*
Fax: 519-741-2633

Union Gas Limited
Manager, Contract Billing and Operational Support
50 Keil Dr N, Chatham Ontario N7M 5M1
Phone: 519-352-3100
Fax: 519-436-4645

SCHEDULE "2"
Terms and Conditions
T3 Contract

1 UPSTREAM TRANSPORTATION COSTS

Where Union is receiving Gas from Customer at a Point of Receipt upstream of Union's system, Customer shall be responsible to Union for all direct and indirect upstream transportation costs including fuel from the Point of Receipt to Union's system, whether Gas is received by Union or not for any reason including Force Majeure. Where actual quantities and costs are not available by the date when Union performs its billing, Union's reasonable estimate will be used and the appropriate reconciliation will be done in the following month.

2 DELIVERY, RECEIPT, DISTRIBUTION AND STORAGE OBLIGATIONS

2.01 Delivery

Customer accepts the obligations to deliver the Obligated DCQ parameters in Schedule 1 to Union on a Firm basis. For all Gas to be received by Union at the Upstream Point of Receipt, Customer shall, in addition to the DCQ, supply on each day sufficient Compressor Fuel as determined by the Transporter.

2.02 Receipt

Union agrees to receive a quantity of Gas at the Points of Receipt identified in Schedule 1, provided Union is not obligated to accept quantities of Gas that exceed any of the following:

- a) the sum of the Obligated DCQ as authorized for that Day;
- b) during any hour, one-twentieth (1/20) of the DCQ;
- c) the amount properly nominated by Customer to Union for receipt by Union;
- d) an amount that would result in Customer exceeding the Firm Storage Space;
- e) an amount that would result in Customer exceeding the Firm Injection Right.

2.03 Distribution to Point(s) of Consumption

Union agrees to distribute a quantity of Gas to each Point of Consumption, not to exceed the sum of Firm Contract Demand and Interruptible Contract Demand, or the Firm Contract Demand only when an interruption is in place, subject to the Maximum Hourly Volume parameters.

2.04 Storage Injection/Withdrawal

Union agrees to inject a quantity of Gas to storage, provided Union is not obligated to inject a quantity of Gas if Customer exceeds their storage space.

Union agrees to withdraw a quantity of Gas from storage, provided Union is not obligated to withdraw a quantity of Gas that exceeds the quantity of Gas remaining in the Customer's Firm Storage Space.

On any Day injection/withdrawal activity shall be deemed as follows:

First Gas injected or withdrawn	Up to 103% of the T-3 injection/withdrawal as specified in Schedule 1, Section 4
Next Gas injected or withdrawn	Market-priced injection/withdrawal as specified in Schedule 1a – Supplemental Services Parameters
Next Gas injected or withdrawn	Overrun T-3 injection/withdrawal for all other quantities

Injection/withdrawal overrun will be authorized or unauthorized as indicated on Union's website and Unionline.

2.05 Type of Distribution Service

The type of Distribution Service herein shall be Firm Service for each Point of Consumption as identified in Schedule 1.

2.06 Transactional Balancing Services

Transactional Balancing Services are defined as those services used by T-3 customers to assist in balancing their storage accounts. The following services can be requested through the nomination process, all other services would require an authorization.

Services available and associated locations include:

- a) Diversions – Obligated Points of Receipt
- b) Suspensions – Obligated Ontario Points of Receipt
- c) Incremental Supply – Ontario Points of Receipt
- d) Ex-franchise transfers to a third party – Dawn
- e) In-franchise transfers – Dawn

Further definition of each Transactional Balancing Service and the associated fees are posted on Union's web site.

These services are nominated by Customer, pursuant to the nomination process in Section 1 of the General Terms and Conditions.

These services may be subject to scheduling reductions or interruptions. Union shall advise of such scheduling reductions or interruptions.

Each Transactional Balancing Service is nominated separately and is independent of any other Transactional Balancing Service. Notwithstanding the scheduling of any Transactional Balancing Services, Customer bears the risk that the Transactional Balancing Services may result in overrun. Scheduling a particular Transactional Service does not constitute the authorization of any overrun of any Contract parameter.

3 CUSTOMER SUPPLIED DISTRIBUTION AND STORAGE COMPRESSOR FUEL

Customer shall have the option of supplying Compressor Fuel to Union for movement of Customer's Gas on Union's system for both Distribution and Storage services. Customer's right to supply Compressor Fuel herein shall only be effective where Schedule 1 and/or Schedule 1a states Customer has accepted this option.

3.01 Distribution Compressor Fuel Quantity

If Customer has elected to supply its own distribution compressor fuel, Union shall, on a daily basis, deduct the distribution fuel quantity from the Gas received from Customer. The distribution fuel quantity shall be equal to the quantity of Gas for which a distribution commodity charge applies multiplied by the distribution fuel ratio specified in the Rate Schedule.

3.02 Storage Compressor Fuel Quantity

If Customer has elected to supply its own storage compressor fuel, Union shall reduce Customer's storage inventory by a quantity equal to the "Storage Fuel Quantity". The "Storage Fuel Quantity" shall be the sum of the injection and withdrawal quantities for which a commodity charge applies, multiplied by the storage fuel ratio specified in the Rate Schedule.

4 ENERGY CONVERSION

Balancing of Gas receipts by Union with Gas distributed to Customer is calculated in energy. The distribution to Customer is converted from volume to energy at the Customer site-specific heat measurement value.

Site-specific heat measuring equipment will be supplied, installed and maintained by Union Gas at each Point of Consumption, or as determined necessary by Union Gas, at the Customer's expense. The resulting heat value adjustment quantity shall be applied to the Customer's storage account.

5 STORAGE SERVICES

5.01 Storage Injection and Withdrawal

Subject to Section 2, if on any Day the quantity of Gas Union receives from Customer exceeds the quantity distributed to Customer, the amount of such excess shall be deemed to have been injected into Customer's storage account.

Subject to Section 2, if on any Day the quantity of Gas Union distributed to Customer exceeds the quantity received from Customer, the amount of such excess shall be deemed to have been withdrawn from Customer's storage account.

5.02 Deliverability Inventory Provided By Customer

If Customer has agreed to supply their own deliverability inventory, Customer's right to withdraw Gas under the Firm Withdrawal Right shall be adjusted between January 1 and April 30. During this period, if Customer's inventory level in storage at the start of each Day is less than 20% of Storage Space entitlement then Customer's Firm Withdrawal Right will be adjusted in accordance with the following formula:

If: $I \geq CDI$,

Then: $AFW = FW$

However if: $I < CDI$

Then: $AFW = FW \times (I / CDI)$

Where:

AFW = Adjusted Firm Withdrawal

FW	=	Firm Withdrawal Right
I	=	Actual Inventory at the beginning of each Day
CDI	=	Customer Deliverability Inventory (Lesser of: $0.2 \times SP$ or $FW/0.075$)
where: SP = Firm Storage Space		

5.03 Disposition of Gas at Contract Termination

If this Contract terminates or expires and Customer does not have a contract for Storage Service with Union then, except as authorized by Union, any Gas balance remaining in Customer's Storage Space shall incur a charge equivalent to the Unauthorized Storage Space Overrun rate in the T3 Rate Schedule. Customer shall incur such charge monthly until the Gas balance remaining has been reduced to zero.

6 CUSTOMER'S FAILURE TO DELIVER GAS

6.01 Customer's Failure To Deliver Obligated DCQ to Union

If on any Day, for any reason, including an instance of Force Majeure, Customer fails to deliver the Obligated DCQ to Union then such event shall constitute a Failure to Deliver as defined in the General Terms and Conditions provided that such event shall not constitute a Failure to Deliver to the extent that Customer is able to deliver gas to Union via the Eastern Canadian Mutual Assistance Agreement ("ECMAA"). For greater clarity, the rights and obligations of the parties hereto under the ECMAA are in no way altered by this Contract. The Failure to Deliver rate in the R1 Rate Schedule shall apply to the quantity Customer fails to deliver. The upstream transportation costs (if any) (Section 1) shall also apply and be payable by Customer.

For Gas that should have been received (excluding any Gas actually delivered to Union by Customer via the ECMAA), Union may make reasonable attempts, but is not obligated to acquire an alternate supply of Gas ("Alternate Supply Gas"). Union's costs and expenses associated with acquiring Alternate Supply Gas will be payable by Customer. For greater certainty, payment of the Failure to Deliver charge is independent of and shall not in any way influence the calculation of Union's costs and expenses associated with acquiring the said Alternate Supply Gas.

Union's obligation to deliver Gas to the Point(s) of Consumption shall be reduced to a quantity of Gas (the "Reduced Distribution Obligation") in aggregate not to exceed the sum of:

- a) The confirmed Nomination quantity of Gas to be delivered to Union;
- b) Alternate Supply Gas if acquired by Union;
- c) Customer's Firm Withdrawal Right subject to Section 5.02.

Customer shall use all reasonable efforts to reduce the magnitude and duration of the Failure to Deliver and to reduce Customer's natural Gas requirements to the Reduced Distribution Obligation to the extent that it is possible and consistent with its obligation as a gas distributor to serve its end use customers on a firm basis.

If Customer's Gas requirements exceed the Reduced Distribution Obligation, then Union's obligation to provide Services under this Contract may, at Union's option, be suspended or terminated by Union. This termination or suspension will be effective as of the date specified in Union's notice to Customer, notwithstanding the General Terms and Conditions.

Union shall not be liable for any damages, losses, costs or expenses incurred by Customer as a consequence of Union exercising its rights under this Section.

6.02 Notice Of Failure

Each Party shall advise the other by the most expeditious means available as soon as it becomes aware that such failure has occurred or is likely to occur. Such notice may be oral, provided it is followed by written notice.

6.03 Customer Failure To Deliver Compressor Fuel

For Gas to be delivered by Customer to Union at an Upstream Point of Receipt, if Customer fails to deliver sufficient Compressor Fuel then in addition to any other remedy Union shall deem the first Gas delivered to be Compressor Fuel and Section 6.01 will apply.

GENERAL TERMS AND CONDITIONS

1	NOMINATION REQUIREMENTS FOR IN-FRANCHISE CONTRACTED SERVICES.....	3
1.01	NOMINATION CYCLE TIMELINES.....	3
1.02	NOMINATION DEADLINE FOR SERVICES REQUIRING UNION TO NOMINATE ON OTHER PIPELINES	3
1.03	NOMINATION QUANTITIES (UNITS).....	3
1.04	COMPRESSOR FUEL	3
1.05	UNION'S ACCEPTANCE OF NOMINATIONS	4
1.06	CONFIRMATION PROCESS.....	4
1.07	SCHEDULING PROCESS	4
1.08	SUBSEQUENT NOMINATIONS.....	4
1.09	PARKWAY CALL	4
2	FORCE MAJEURE	5
2.01	FORCE MAJEURE NOT AVAILABLE	5
2.02	FORCE MAJEURE DECLARED BY UNION.....	6
2.03	FORCE MAJEURE DECLARED BY CUSTOMER.....	6
2.04	APPLICABILITY TO CONTRACTUAL ANNUAL QUANTITY REQUIREMENTS	6
3	TERMINATION AND SUSPENSION.....	6
3.01	TERMINATION OF CONTRACT AND SUSPENSION OF SERVICE	6
3.02	EFFECT OF TERMINATION	7
4	NOTICE.....	7
5	BILLING.....	8
5.01	MONTHLY BILLING	8
5.02	RIGHT OF EXAMINATION.....	8
5.03	PAYMENTS	8
5.03-1	<i>Payment Date</i>	8
5.03-2	<i>Remedies For Non-Payment</i>	8
5.03-3	<i>Adjustment of Underpayment or Overpayment</i>	8
5.04	FINANCIAL ASSURANCE.....	9
5.05	NON-PAYMENT REMEDY	9
6	QUALITY	10
6.01	NATURAL GAS QUALITY	10
6.02	FREEDOM FROM OBJECTIONABLE MATTER.....	10
6.03	PARTIES' RESPONSIBILITIES.....	10
7	MEASUREMENT	10
7.01	DETERMINATION OF VOLUME AND ENERGY	10
7.02	METERING BY UNION, CHECK MEASURING EQUIPMENT.....	10
7.03	OBSERVATION OF MEASUREMENT WORK.....	11
7.04	CALIBRATION AND TEST OF METERS	11
7.05	CORRECTION OF METERING ERRORS - FAILURE OF METERS	11
8	POSSESSION OF AND RESPONSIBILITY FOR GAS.....	11
8.01	POINT OF RECEIPT AND POINT OF CONSUMPTION CONTROLS	11

8.02	TITLE TO THE GAS.....	12
8.03	COMMON CARRIER AND INSURANCE	12
8.04	RIGHT TO COMMINGLE THE GAS.....	12
9	FACILITIES AT CONSUMPTION POINT	12
9.01	CONSTRUCTION, MAINTENANCE AND ENTRY	12
9.02	PROPERTY, EASEMENTS, UTILITIES.....	12
10	INDEMNITY	13
11	REPRESENTATIONS AND WARRANTIES BY AGENT.....	13
12	MISCELLANEOUS PROVISIONS.....	14
12.01	INTERPRETATION	14
12.01-1	<i>Definitions and Industry Usage</i>	<i>14</i>
12.01-2	<i>Expanded Meaning</i>	<i>14</i>
12.01-3	<i>Inconsistency.....</i>	<i>14</i>
12.01-4	<i>Currency</i>	<i>14</i>
12.01-5	<i>Time.....</i>	<i>14</i>
12.02	ASSIGNABILITY	14
12.03	PROPER LAW OF CONTRACT	15
12.04	SUCCESSORS AND ASSIGNS	15
12.05	ENTIRE CONTRACT	15
12.06	CONFIDENTIALITY	15
12.07	PRIORITY OF SERVICE	15
12.08	WAIVER AND FUTURE DEFAULT	15
12.09	LAWS, REGULATIONS AND ORDERS	15
12.10	RIGHT TO CONTRACT	16
12.11	SURVIVING OBLIGATIONS	16
12.12	JOINT AND SEVERAL LIABILITY	16
12.13	INVALIDITY OF PROVISIONS	16
12.14	SERVICE CURTAILMENT.....	16
12.15	UNAUTHORIZED USE OF SERVICES.....	16
12.16	CONSEQUENTIAL CLAIMS OR DAMAGES	17
12.17	FURTHER ASSURANCES.....	17
12.18	AMENDMENT	17
12.19	COUNTERPARTS	17
13	DEFINITIONS	17

GENERAL TERMS AND CONDITIONS

1 NOMINATION REQUIREMENTS FOR IN-FRANCHISE CONTRACTED SERVICES

Customers with contracted Services requiring Nominations to Union must submit Nominations to Union in accordance with Union's nomination provisions. These Nominations must be submitted to Union via fax or Unionline where available for Nominations.

Union follows the North American Energy Standard Board (NAESB) timeline standards providing for 4 available nomination cycles for each Gas Day. Each of the nomination cycles follows the same process sequence: Nomination, acceptance, confirmation and scheduling.

1.01 Nomination Cycle Timelines

The table below identifies the deadlines for each of the 4 standard nomination cycles. All times are identified as Eastern Clock Time ("ECT")

Nomination Cycle	Fax Deadline	Unionline Deadline (where available)	Scheduling Deadline	Effective Flow
Timely (Cycle 1)	1130 hours	1230 hours	1730 hours	1000 hours
Evening (Cycle 2)	1800 hours	1900 hours	2300 hours	1000 hours

Intra-Day Nominations can be used to modify nominated quantities on the current Gas Day.

Nomination Cycle	Fax Deadline	Unionline Deadline (where available)	Scheduling Deadline	Effective Flow
Intra-Day 1 (Cycle 3)	1000 hours	1100 hours	1500 hours	1800 hours
Intra-Day 2 (Cycle 4)	1700 hours	1800 hours	2200 hours	2200 hours

1.02 Nomination Deadline for Services requiring Union to Nominate on Other Pipelines

The Nomination deadline for any contracted services (ie. exchanges) requiring Union to nominate on upstream pipelines is 1030 hours ECT. These services are only offered on the Timely Nomination Cycle. If nominated after 1030 hours ECT and before the close of the Timely Nomination Cycle deadline Union will attempt to accommodate on a reasonable efforts basis. Union does not accept changes to the nominated quantities for these services after the close of the Timely Nomination Cycle deadline.

1.03 Nomination Quantities (Units)

All Services are required to be nominated in whole Gigajoules (GJ's)

1.04 Compressor Fuel

For Services requiring Customer to provide Compressor Fuel in kind, the nominated fuel requirements will be calculated by rounding to the nearest whole GJ.

1.05 Union's Acceptance of Nominations

Union will accept Nominations for contracted Services on each of the 4 standard nomination cycles. The Nomination will be rejected if the activity on the Nomination does not properly balance or if the nominated quantities violate Customer's contractual entitlements.

If a Nomination is not received prior to the nomination deadline it will be held for scheduling in the subsequent nomination cycle for the Gas Day.

1.06 Confirmation Process

The confirmation process validates nominated quantities to flow between interconnecting pipelines to ensure Customers have nominated identical quantities to both pipeline operators. In the case where there is a discrepancy between the nominated quantities and the discrepancy cannot be resolved with Customer, then the lower quantity will be the confirmed scheduled quantity.

1.07 Scheduling Process

During the scheduling process Union compares all of the Nominations to the physical capacity available for the Gas Day in question.

If there is insufficient capacity available to meet all of the nominated quantities Union will complete scheduling reductions of nominated Interruptible Services.

If Union is unable to completely schedule an Interruptible Service, Customer will be advised of its scheduled quantities no later than the close of the scheduling deadline for the applicable Nomination cycle. Once notified, Customer is, within 30 minutes, required to submit a revised Nomination to meet the scheduled quantity for the Interruptible Service. In order to be accepted, this Nomination must be properly balanced and the nominated quantities must not violate Customer's contractual entitlements. If a revised Nomination is not submitted, Union will, using the contracted Services Customer has available, re-balance the Nomination to match the scheduled quantities.

Scheduling of Firm Services must be nominated on the Timely Nomination Cycle. Nominations for increasing quantities for Firm Services after the Timely Nomination Cycle will be treated as Interruptible Services and will only be scheduled if there is sufficient capacity available.

1.08 Subsequent Nominations

All scheduled Nominations for Services will remain in effect until a new Nomination is provided by Customer.

The Unbundled Service requires a valid daily Nomination.

1.09 Parkway Call

This Section 1.09 is only applicable to Services taken under Rates U2, U5, U7 and U9. Union shall advise Customer of the Parkway Call requirement on or before 1730 hours ECT on the day immediately preceding the Gas Day for which the Parkway Call is required.

After being notified by Union, but no later than 1900 hours ECT on the same day, Customer shall provide a revised Nomination to Union, which shall include the entire Parkway Call. If a revised Nomination acceptable to Union is not provided by 1900 hours ECT or does not include the entire Parkway Call, a Failure to Deliver will be deemed to have occurred, and the Failure to Deliver section in Schedule 2 of this Contract shall apply.

2 FORCE MAJEURE

In the event that either Customer or Union is rendered unable, in whole or in part, by Force Majeure, to perform or comply with any obligation or condition of this Contract then, subject to the provision of this Section 2, the obligations (other than the obligations to make payment of money then due) of both parties so far as they are directly related to and affected by such Force Majeure, shall be suspended during the continuance of the Force Majeure.

The party claiming Force Majeure shall give Notice, with full particulars of such Force Majeure, to the other party as soon as possible after the occurrence of Force Majeure.

The party claiming Force Majeure shall also give Notice to the other party as soon as possible after the Force Majeure is remedied in whole or part.

Force Majeure means:

- a) Acts of God, landslides, lightning, earthquakes, fires, storms, floods, washouts, explosions, breakage or accident to its machinery or equipment or lines of pipe;
- b) freezing or failure of wells or lines of pipe; curtailment of firm transportation and/or firm storage by Transporters;
- c) strikes, lockouts or other industrial disturbances, riots, sabotage, insurrections, civil disturbance, acts of terrorism, wars, arrests or restraint of governments and people;
- d) any laws, orders, rules, regulations, acts of any government body or authority, civil or military;
- e) any act or omission by parties not controlled by the party claiming Force Majeure; and
- f) any other similar causes 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.

The party claiming Force Majeure shall make reasonable efforts to avoid, or correct the Force Majeure and to remedy the Force Majeure once it has occurred in order to resume performance.

2.01 Force Majeure Not Available

A party claiming Force Majeure shall not be entitled to the benefit of the provisions of Force Majeure if any one or more of the following circumstances prevail:

- a) the Force Majeure was caused by the negligence of the party claiming Force Majeure;
- b) the party claiming Force Majeure failed to make all reasonable efforts (not including litigation, if such remedy would require litigation) to remedy the Force Majeure;
- c) the Force Majeure was caused by lack of funds;
- d) the party claiming Force Majeure did not give Notice required, as soon as reasonably possible after the Force Majeure occurred.

2.02 Force Majeure Declared by Union

During a Force Majeure declared by Union, Customer will be responsible for commodity charges and will only be relieved of the demand charges applicable to that part of the Services not available to Customer as a result of the Force Majeure. Union will not be responsible for any Transporter charges.

2.03 Force Majeure Declared by Customer

During a Force Majeure declared by Customer, all demand charges and all commodity charges otherwise payable under this Contract will continue to be payable. Where this Contract includes an Obligation to Deliver Gas, such Obligation to Deliver Gas shall not be relieved under Force Majeure. Union will not be responsible for any Transporter charges.

2.04 Applicability to Contractual Annual Quantity Requirements

- a) The number of days of Force Majeure will proportionally reduce any minimum annual quantity upon which any minimum bills are determined, and such reduced minimum annual quantity will not be limited to the minimum quantity required to qualify for the applicable Rate Schedule.
- b) Services taken during the period of Force Majeure will be deemed not to have been taken for purposes of determining the applicable minimum annual quantity.

3 TERMINATION and SUSPENSION

3.01 Termination of Contract and Suspension of Service

In the event of a breach, misrepresentation, non-observance or non-performance by any party to this Contract of any covenant, provision, representation, condition, continuing condition, restriction or stipulation contained in this Contract (including, without limiting the generality of the foregoing, any failure to pay, any failure to provide financial assurances when required pursuant to the terms of this Contract, or any Failure to Deliver), the party not in default may give written Notice to the defaulting party requiring it to remedy such default. If the defaulting party fails to fully remedy the party not in default for all consequences of such default within a period of ten (10) Business Days from receipt of such Notice, then:

- (a) this Contract may be terminated by Notice from the party not in default; and/or

(b) if the Customer is the defaulting party, Union may suspend Services under this Contract. Such suspension shall not relieve Customer from paying any charges payable under this Contract.

If either party makes an assignment in bankruptcy, is a party against whom a receiving order is made, or for whom a receiver or monitor has been appointed under a security agreement or by a court or any similar action under any law, the other party may terminate this Contract immediately, except where not permitted by such law.

(c) The rights set forth in this Section 3.01 shall be in addition to, and not in derogation of or in substitution for, any other right or remedy which the parties respectively at law or in equity shall or may possess.

3.02 Effect of Termination

Notwithstanding the termination of this Contract, each party shall continue to be liable to pay on the terms herein specified any amount accrued and payable up to the time of termination. Termination will be without waiver of any other remedy to which the party not in default may be entitled including breaches of contract, for past and future damages, and losses.

4 NOTICE

All Notices required hereunder (each a "Notice"), except for those in Section 1 (Nominations) of these General Terms and Conditions shall be in writing and shall be sufficiently given and received if personally delivered or sent by mail, Unionline, fax or e-mail to the address of the party specified in Schedule 1 to this Contract.

Personally served Notice is deemed to be received when actually delivered.

Notice sent by mail, Unionline, or e-mail is deemed to have been received when actually received.

Notice sent by fax is deemed to have been received on the date of receipt of the transmission.

Notwithstanding the above, with the exception of Notice of interruption of Interruptible Services or Force Majeure, any Notice received after 5:00 pm or on a weekend or a statutory holiday is deemed to be received on the next Business Day.

The addresses of Customer and Union for receipt of Notices are as set out in Schedule 1 and such addresses may be changed by Notice given in accordance with this Section 4.

5 BILLING

5.01 Monthly Billing

Each Month, Union shall render a bill for Services and any other charges for the preceding Month. Charges may be based on estimated quantities. If based on an estimate, Union shall provide, in a future Month's billing, an adjustment based on any difference between actual quantities and estimated quantities.

5.02 Right of Examination

Both Union and Customer shall have the right to examine at any reasonable time, copies of the books, records and charts of the other to the extent necessary to verify the accuracy of any statement, chart or computation made under or pursuant to the provisions of this Contract.

5.03 Payments

5.03-1 Payment Date

Payment date is identified in the applicable Rate Schedule. If payment date is not identified in a Rate Schedule, it will be as identified on the invoice.

5.03-2 Remedies For Non-Payment

In the event that Customer fails to pay Union when payment is due, late payment charges as identified in the applicable Rate Schedule and the termination and suspension provisions in Section 3 will apply.

5.03-3 Adjustment of Underpayment or Overpayment

If a Customer in good faith disputes a bill or any portion thereof, Customer shall pay the undisputed portions of the bill. Together with such payment, Customer shall provide written Notice to Union setting out the portions of the bill that are in dispute, an explanation of the dispute and the amount that Customer believes is the correct amount.

If it is subsequently determined that a bill or any portion thereof disputed by Customer is correct, then Customer shall pay the disputed portions of the bill with Interest within thirty (30) days after the final determination.

If it is subsequently determined that Customer has been overcharged and Customer has actually paid the bill(s) containing the overcharge then, within thirty (30) days after the final determination, Union shall refund the amount of any such overcharge with Interest.

If it is subsequently determined that Customer has been undercharged, Customer shall pay the amount of any such undercharge within thirty (30) days after the final determination.

Customer and Union each expressly disclaims and waives any claim or dispute (including those related to amounts charged for Services or quantities of Gas distributed, stored, or transported) that relate to a period that is earlier than 12 Months prior to the date written Notice to the other party of such claim or dispute is asserted. This applies to the extent allowed under law and whether such claim or dispute is related to a billing error or measurement error or any other error or circumstance whatsoever.

5.04 Financial Assurance

If at any time during the term of this Contract, Union has reasonable grounds to believe that Customer's creditworthiness under this Contract has become unsatisfactory, then Union may by written Notice request financial assurances from Customer in an amount determined by Union in a commercially reasonable manner. Upon receipt of such written Notice, Customer shall have 14 days to provide such financial assurances.

The financial assurances requested by Union will not exceed the sum of the following:

- a) an amount equal to 60 days of all Services; and,
- b) if Customer holds a temporary capacity assignment from Union of a third party asset (for example, upstream pipeline capacity), an amount equal to the higher of 60 days of all charges for the third party asset, or security equivalent to that which may be required by the third party asset provider as if Customer held the asset directly; and,
- c) if Customer supplies their own Gas, an amount equivalent to the value, as determined by Union, of any current or projected negative Banked Gas Account balance.

Customer may provide Union such financial assurances in the form of cash, letters of credit, guarantees or such other form as may be agreed upon between Customer and Union.

In the event that Customer fails to provide financial assurances as set out above, the termination and suspension provisions in Section 3 shall apply.

Where Customer has provided financial assurances to Union, and the grounds for requesting such financial assurances have been removed so that Customer's creditworthiness under this Contract has become satisfactory, then Customer may request the return of such financial assurances from Union by written Notice. Upon receipt of such written Notice Union shall have 14 days to return such financial assurances to Customer.

5.05 Non-Payment Remedy

If Customer shall be indebted (whether past, present, or future, liquidated or unliquidated) to Union, under this Contract, Union has the right to reduce any amount payable by Union to Customer under this Contract by an amount equal to the amount of such indebtedness to Union.

As part of this remedy, Union may take title to any or all of Customer's Gas in Union's possession. Such Gas shall be valued at the day price for Gas at Dawn as listed in Canadian Gas Price Reporter for the day of non-payment.

6 QUALITY

6.01 Natural Gas Quality

In any Month, the minimum average gross heating value of the Gas received by Union from Customer and delivered to Customer by Union shall be thirty-six (36) Megajoules per Cubic Metre. Gas shall not contain more than twenty-three (23) milligrams of hydrogen sulphide per Cubic Metre nor four hundred and sixty (460) milligrams of total sulphur per Cubic Metre of Gas, as determined by standard methods of testing.

6.02 Freedom from Objectionable Matter

The Gas received by Union and delivered to Customer hereunder shall be free (at prevailing pressure and temperature in Union's pipeline at the Point of Receipt or Point of Consumption, as the case may be) from dust, or other solids or liquids which cause injury to, or interfere with proper operation of the lines, regulators, or meters through which it flows.

6.03 Parties' Responsibilities

If the Gas being received by Union from Customer or delivered by Union to Customer fails at any time to conform to any of the specifications set forth in this Section 6, the party receiving such Gas shall notify the delivering party of such deficiency and thereupon the party receiving the Gas may, at its option, refuse to accept receipt of Gas pending correction by the party delivering the Gas. Neither party is responsible for any loss, damage, or injury resulting from such party's delivery of Gas that does not conform to any specifications set forth in Section 6 except to the extent any such loss, damage or injury arises as a result of such party's gross negligence or wilful misconduct.

7 MEASUREMENT

7.01 Determination of Volume and Energy

- a) The volume and energy amounts shall be determined in accordance with the Electricity and Gas Inspection Act, R.S.C. 1985 c. E-4 (the "Act") and the Electricity and Gas Inspection Regulations, S.O.R 86/131 (the "Regulations"), and any documents issued under the authority of the Act and Regulations and any amendments thereto. Where there is no site specific energy measurement, Union's Average Heat Value will be used to convert volumes to energy.
- b) The supercompressibility factor shall be determined in accordance with either the "Manual for Determination of Supercompressibility Factors for Natural Gas" (PAR Project NX-19) published in 1962 or with American Gas Association Transmission Measurement Committee Report No. 8, Nov. 1992, at Union's discretion.

7.02 Metering by Union, Check Measuring Equipment

Union will install and operate meters and related equipment in accordance with the Act and the Regulations referenced in these General Terms and Conditions.

Customer may install, maintain, and operate, such check measuring equipment as desired, and shall be so installed as not to interfere with the operation of Union's measuring equipment at

or near the Consumption Point. This check measuring equipment will be downstream of the Consumption Point and at Customer's own expense.

Where Union has installed heat value measuring equipment at Customer's end use location, the heating value properly measured at this site will be used to convert volume to energy for Gas delivered by Union to Customer.

7.03 Observation of Measurement Work

Union and Customer shall have the option to have representatives present at the time of any installing, reading, cleaning, changing, repairing, inspecting, testing, calibrating, or adjusting done in connection with the other's measuring equipment. Each party shall provide reasonable notification to the other party in connection with testing, calibrating or adjusting measuring equipment, to enable the other party to be present if desired.

7.04 Calibration and Test of Meters

The accuracy of Union's measuring equipment shall be verified by Union at reasonable intervals.

If Customer notifies Union that it desires a special test, the expense of any such test shall be borne by Customer if the measuring equipment tested is found to be in error by two per cent (2%) or less. In this event, previous recordings shall be considered accurate, but such equipment shall be adjusted to record as near to absolute accuracy as possible. If the special test shows a percentage of inaccuracy greater than two percent (2%), the expense of the test will be borne by Union and the financial adjustment shall be calculated in accordance with the Act and Regulations thereunder, and any successor statutes and regulations. Union shall not be required to verify the accuracy of such equipment more frequently than once in any thirty (30) day period.

7.05 Correction of Metering Errors - Failure Of Meters

In the event a meter is out of service, or registered inaccurately, the volume or quantity of Gas shall be determined by Union as follows:

- a) by using the registration of any check meter or meter, if installed and accurately registering; or, in the absence of (a) then;
- b) by correcting the error if the percentage of error is ascertainable by calibration, tests or mathematical calculation; or in the absence of both (a) and (b), then;
- c) by estimating the quantity of Gas delivered during periods under similar conditions when the meter was registering accurately.

8 POSSESSION OF AND RESPONSIBILITY FOR GAS

8.01 Point of Receipt and Point of Consumption Controls

As between Union and Customer, control, responsibility, and possession of all Gas received and/or delivered and transported hereunder shall pass from the delivering party to the receiving party at the Points of Receipt and the Points of Consumption as applicable.

8.02 Title to the Gas

Each party warrants that it owns or controls, or has the right to deliver or have delivered to the other party, Gas that is free and clear of any lien, mortgage, security interest or other encumbrance whatsoever. The delivering party shall indemnify and hold harmless the receiving party from all claims, actions, or damages arising from any adverse claims by third parties claiming an ownership or an interest in such Gas.

8.03 Common Carrier and Insurance

To further clarify the relationship between Union and Customer, Union is not a common carrier and Union is not an insurer of Customer's Gas.

8.04 Right to Commingle the Gas

Union shall have the right to commingle and use the Gas received under this Contract with Gas owned by Union or others and deliver such commingled Gas to Customers.

9 FACILITIES AT CONSUMPTION POINT

9.01 Construction, Maintenance and Entry

Union may construct on Customer's property (whether owned by Customer or any other party), at each Point of Consumption the metering stations and facilities required by Union. Union employees or agents may at any reasonable time, with notification to Customer (except in cases of emergency where no notification is required), enter Customer's property provided that in all cases Union's employees or agents agree to abide by Customer's facility security policies and procedures and health and safety policies provided that they are reasonable and provided by Customer to Union's employees or agent prior to entry to the property.

9.02 Property, Easements, Utilities

Customer agrees that all stations and facilities installed by Union, including the meter station, are the property of Union whether the facilities are on property belonging to Customer or some other party.

Customer grants to Union on such non-financial commercial terms and conditions as may be agreed upon any required easements or agreements and undertakes to obtain or execute and deliver to Union such required easements or agreements to allow Union to have the related use of Customer's land interests which may be reasonably required by Union to facilitate Construction.

In the event that the station at the Point of Consumption requires electrical power circuitry, exclusive telecommunications and/or telecommunications lines, or other utility supply apparatus ("Equipment"), at each or any meter in the station, for telemetry; in addition to telemetry; or for purposes unrelated to telemetry, Customer agrees to provide and pay for all such Equipment and all utilities required (including power and telephone service as specified by Union) for the purpose of serving the Equipment. The exclusive telephone line for each meter must not employ a manual switchboard.

10 INDEMNITY

Each party (the "Indemnifying Party") hereby agrees to indemnify and save the other party (the "Indemnified Party") harmless from and against all claims, demands, actions, causes of action, damage, loss, deficiency, cost, liability and expense which may be brought against the Indemnified Party or which Indemnified Party may suffer or incur as a result of, in respect of, or arising out of any of the following:

- a) any non-performance or non-fulfilment of any covenant or agreement on the part of the Indemnifying Party contained in this Contract;
- b) any misrepresentation, inaccuracy, incorrectness or breach of any representation or warranty made by the Indemnifying Party contained in this Contract or contained in any document given pursuant to this Contract;
- c) *(Subsection 10(c) is only applicable to Agent or Customer as the Indemnifying Party)*
the failure of the Indemnifying Party to satisfy its obligations to End Use locations listed in Schedule 3 (where a Schedule 3 is included in this Contract);
- d) *(Subsection 10(d) is only applicable to Agent as the Indemnifying Party)*
any dispute arising out of any aspect of the relationship between the Agent and Customer;
- e) any negligence or wilful misconduct of the Indemnifying Party;
- f) all costs and expenses including, without limitation, legal fees, incidental to or in respect of the foregoing.

This indemnity shall survive the termination or expiration of this Contract.

11 REPRESENTATIONS AND WARRANTIES BY AGENT

Agent hereby represents and warrants to Union as follows and confirms that Union is relying upon the accuracy of each of such representations and warranties in connection with the execution of this Contract by Union and the acceptance of its rights and obligations hereunder:

- a) Agent is the duly appointed agent of Customer and, in such capacity, is entitled to enter into this Contract on behalf of Customer and to act on its behalf hereunder;
- b) Union is entitled to rely on anything done or any document signed by Agent on behalf of Customer, in respect of this Contract as if the action had been taken or the document had been signed by Customer; and
- c) payments made by Customer to Union pursuant to invoices shall be made without any right of deduction or set-off regardless of any rights Customer may have against Agent or any rights Agent may have against Customer.
- d) Agent shall be the only person to deliver or receive all Notices, invoices, and payments. Any Notice, invoice, or payment made to Union by Agent will be deemed to be received

from Customer. Any Notice, invoice, or payment made by Union to Agent will be deemed to be received by Customer. Union shall not be responsible to communicate to End Users any such Notice, invoice, or payment from or to Agent.

12 MISCELLANEOUS PROVISIONS

12.01 Interpretation

12.01-1 Definitions and Industry Usage

Capitalized terms and certain other terms used in this Contract and not specifically defined shall have the meaning set forth in these General Terms and Conditions, Schedules and/or Rate Schedule. Words, phrases or expressions which are not defined herein and which, in the usage or custom of the business of the exploration, production, transmission, storage, and distribution or sale of natural gas in Canada have an accepted meaning shall have that meaning.

12.01-2 Expanded Meaning

In this Agreement, unless there is something in the subject matter or context inconsistent therewith:

- a) words importing the singular shall include the plural and vice versa;
- b) words importing the gender shall include the masculine, feminine and neuter genders; and
- c) references to any statute shall extend to any orders in-council or regulations passed under and pursuant thereto, of any amendment or re-enactment or such statute, orders-in-council or regulations, or any statute, orders-in-council or regulations substantially in replacement thereof.

12.01-3 Inconsistency

In the event of a conflict among the terms of the (i) Rate Schedules; (ii) the body of the Contract; (iii) Schedules to the Contract; and, (iv) these General Terms and Conditions, the terms of the documents shall govern in the priority as listed.

12.01-4 Currency

Unless otherwise indicated, all reference to dollars in this Contract shall mean Canadian dollars.

12.01-5 Time

All references to time in this Contract shall be stated in Eastern Clock Time.

12.02 Assignability

Neither the rights nor the obligations of Customer under this Contract shall be assignable without the prior written consent of Union. Union's consent may not be unreasonably withheld or delayed.

12.03 Proper Law of Contract

This Contract shall be governed by and construed in accordance with the laws of the Province of Ontario, and the parties to this Contract exclusively attorn to the jurisdiction of the Courts of Ontario.

12.04 Successors and Assigns

The Contract shall be binding upon and shall enure to the benefit of the Parties hereto and their respective successors and permitted and lawful assigns.

12.05 Entire Contract

This Contract constitutes the entire agreement between the parties pertaining to the subject matter hereof. This Contract supersedes any prior agreements, understandings, negotiations or discussions, whether oral or written, between the Parties in respect of the subject matter hereof.

12.06 Confidentiality

Except for credit purposes, unless the Parties to this Contract otherwise expressly agree in writing, the terms of this Contract will remain strictly confidential except as otherwise required by applicable law or by any competent regulatory body or court of competent jurisdiction.

12.07 Priority of Service

Despite any other provision of this Contract, when the use of Gas or Service is curtailed or restricted, by order of any authorized government agency, or by Force Majeure, Customer shall, in accordance with the direction of Union, curtail or discontinue use of Gas or Service during the period in which such Gas or Service is so jeopardized. Union shall not be liable for any loss of production or for any damages whatsoever by reason of such curtailment or discontinuance or because of the length of advance Notice given directing such curtailment or discontinuance. However, Union shall use its reasonable efforts to provide Notice as soon as possible to Customer, of such curtailment or discontinuance of Gas or Service as aforesaid.

12.08 Waiver and Future Default

No waiver by either Union or Customer of any one or more defaults by the other in the performance of any provisions of this Contract shall operate or be construed as a waiver of any future default or defaults, whether of a like or a different character.

12.09 Laws, Regulations and Orders

This Contract and the respective rights and obligations of the Parties hereto are subject to all present and future valid laws, statutes, orders, rules and regulations of any competent legislative body, or duly constituted authority now or hereafter having jurisdiction. This Contract shall be varied and amended to comply with or conform to any valid order or direction of any board, tribunal or administrative agency, which affects any of the provisions of this Contract.

12.10 Right to Contract

Customer hereby represents and warrants to Union that it or its Agent has the sole right to enter into this Contract for each of the Points of Consumption, for the term of this Contract.

12.11 Surviving Obligations

Despite the termination or expiry of this Contract, the following defined provisions shall remain in full force and effect in accordance with their terms and shall survive termination or expiry. The term of the survival shall be for the period referenced in this section.

- a) confidentiality as outlined in Section 12.06
- b) liability and Gas balancing obligations to the extent any liabilities and Gas balancing obligations have accrued prior to the date of termination or expiry of this Contract, and may continue as a result of an event occurring prior to the termination or expiry of this Contract (for the period until all liabilities and Gas balancing and reconciliations have been completed)
- c) Settlement of accounts; rights to set off; calling any Letter of Credit; collecting on any security (for the period until all accounts have been settled).

12.12 Joint and Several Liability

In the event that Customer is more than one person the obligations of all of such persons shall be joint and several and Union shall not be required to exhaust its rights and remedies against any one person prior to exercising its rights and remedies in respect of any other person.

12.13 Invalidity of Provisions

If any of the provisions of this Contract are invalid, illegal or unenforceable in any respect, the validity or legality of enforceability of the remaining provisions shall not in any way be affected.

12.14 Service Curtailment

Union may be required from time to time to perform Construction to its facilities, which may impact Union's ability to meet Customer's requirements. In such event, Union shall have the right to suspend any Service in whole or in part but will use reasonable efforts to determine a mutually acceptable period during which such Construction will occur and also to reasonably limit the extent and duration of any impairments. Union shall provide at least fifteen (15) days Notice (except in cases of emergency, in which event it may be done immediately with Notice provided as soon as reasonably possible afterwards) to Customer of the extent that Union's ability to provide Service may be impaired. During any such curtailment, Customer will be relieved of the demand charges for Services directly related to the said curtailment, but commodity and proportionate demand charges for Services available to Customer will be payable.

12.15 Unauthorized Use of Services

If Customer exceeds the Contract parameters (including Service parameters, after notification of interruption of Interruptible Service or curtailment resulting from a Force Majeure), in

addition to charges identified in the Rate Schedules, Customer shall also be responsible for any direct damages resulting from exceeding the Contract parameters and/or not complying fully with any Notice.

If Customer uses Interruptible Services, in breach of notification of interruption, Union will have the right to change Customer from Interruptible Service to Firm Service or increase its Firm Service, by an amount equivalent to the quantity of such excess Interruptible Service used on any day effective on the first Day of any Month following such breach.

12.16 Consequential Claims or Damages

Neither party shall be responsible for any consequential, incidental, special or indirect damages whatsoever, including, without limitation, loss of profits, loss of earnings, business interruption losses, cost of capital or loss of business opportunities. This provision shall survive the termination or expiration of this Contract.

12.17 Further Assurances

Each party will do, execute and deliver, or will cause to be done, executed and delivered, all such further acts, documents, and assurances as may reasonably be requested for the carrying out and performance of this Contract.

12.18 Amendment

Union may from time to time incorporate updates to Schedule 2 to this Contract and/or these General Terms and Conditions which are intended to be applicable to all of Union's customers on non-discriminatory basis. Union will notify Customer not less than 60 days prior to the effective date of the update and post the update on Unionline. Union will notify Customer again not less than 30 days prior to the effective date of the update. If 10 Business Days prior to the effective date, Customer has not provided Notice to Union objecting to the update, then Customer will be deemed to have accepted the revised Schedule 2 to this Contract and/or these General Terms and Conditions, as the case may be, which shall, as of the effective date, apply to this Contract. If Customer has provided Notice objecting to the update, the revision shall not apply to this Contract.

12.19 Counterparts

This Agreement may be executed in several counterparts, each of which so executed being deemed to be an original. Such counterparts together shall constitute one and the same instrument and notwithstanding their date of execution shall be deemed to be made and dated as of the date hereof.

13 DEFINITIONS

Except where this Contract expressly states another meaning, the following definitions, when used in these General Terms and Conditions or in this Contract, shall have the following meanings:

"Agent" means such person as appointed by Customer as its agent to enter into the Contract on behalf of the Customer and to act on Customer's behalf hereunder.

"Average Heat Value" means the average forecasted heating value of all Gas to be received by Union for the applicable Delivery Area for the applicable period.

"Authorization Notice" means the written approval provided by Union in response to Customer's request for a short-term amendment to certain contract parameters or additional Services. Such Authorization Notice shall specify the approved amended parameters and the term for the amendment.

"Business Day" means any day upon which Union's head office in Chatham, Ontario, is normally open for business.

"Bundled Service" means a Service provided by Union under the Gas Distribution Contract and/or the Bundled T Gas Contract without daily Nominations at the Consumption Point.

"Bundled T" means the Bundled T Gas Contract with Union under which Customer receives Receipt Services.

"Compressor Fuel" means an amount of Gas specified by Transporter to be supplied by a shipper as a fuel source for Transporter's pipeline compressors.

"Construction" means constructing, maintaining, removing, operating and/or repairing Union's facilities for the purpose of commencing, maintaining, or discontinuing deliveries of Gas to Customer.

"Contract" means the contract entered into between Union and Customer to which these General Terms and Conditions, Rate Schedules and Schedules apply, and into which they are incorporated by reference.

"Contract Demand" ("CD") means the maximum volume or quantity of Gas that Union is obliged to deliver in any one day to a Customer under all Services or, if the context so requires, a particular Service at the Consumption Point.

"Contract Year" means a period of twelve (12) consecutive Months beginning on the day of First Delivery and each anniversary date thereafter unless mutually agreed otherwise.

"Cubic Metre" ("m³") means the volume of Gas which occupies one cubic metre when such Gas is at a temperature of 15 degrees Celsius, and at an absolute pressure of 101.325 kilopascals.

"Customer" shall have the meaning as defined in this Contract.

"Daily Contract Quantity" ("DCQ") means that portion of the daily parameters as set out in Schedule 1, being a quantity of Gas which Customer must deliver to Union on a Firm basis. The DCQ (GJ/day) is equal to 12 months of consumption of end-use locations underlying the direct purchase contract / 365 days * heat value (GJ/m³). If this Contract has a term greater than 12 months, the DCQ is calculated by dividing the historical consumption for the term of this Contract by the number of Days in this Contract term. The consumption of general service end-use locations is weather normalized.

“Day of First Delivery” means the date the Service, obligations, terms and conditions of the Gas Distribution Contract commence, as set out in its Schedule 1.

“Day of First Receipt” means the date the Service, obligations, terms and conditions of the Bundled T commence, as set out in its Schedule 1.

“Delivery Area” means the receipt zone(s) of Union (Manitoba, Western, Northern, Sault Ste. Marie, Central, North Central or Eastern Delivery Areas) which are defined as the delivery zone(s) of TCPL for service under its applicable toll schedules.

“Delivery Service” means the transportation of Gas by Union to storage or the Consumption Points.

“Distribution Service” means any combination of Delivery Service and Storage Service.

“End User” means the ultimate user of the Gas in Union’s franchise area.

“Failure to Deliver” means the circumstance where Customer is obligated to deliver a quantity of Gas to Union, and all or a portion of the said quantity is not received by Union at the Points of Receipt.

“Firm” means any Services not subject to interruption or curtailment except under sections titled Force Majeure; Service Curtailment; and Priority of Service of these General Terms and Conditions.

“Firm Entitlements” means the quantity of Gas as set out in Schedule 1 of the Unbundled Service contract which Customer will nominate and deliver to Union and Union shall receive at each contracted Receipt Point.

“Gas” means Gas as defined in the Ontario Energy Board Act, 1998, as amended, supplemented or re-enacted from time to time, which may be commingled supplies.

“Gas Day” means a period of twenty-four (24) consecutive hours beginning at 10:00 a.m. in the Eastern Time Zone. The reference date for any day shall be the calendar date upon which the twenty-four (24) hour period shall commence.

“Interruptible” means any Services subject to interruption, after being notified by Union.

“Interest” means the minimum commercial lending rate of Union’s principal banker for the relevant period.

“Joule” (J) means 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. The term “Megajoule” (MJ) shall mean 1,000,000 Joules. The term “gigajoule” (GJ) shall mean 1,000,000,000 Joules.

“Month” means a period beginning at 10:00 a.m. (Eastern Clock Time) on the first day of the calendar month and ending at the same hour on the first day of the next succeeding

calendar month.

"Nomination" means a request to Union for a Service in accordance with Union's nomination provisions.

"Non-Obligated" means any quantities of Gas that are not committed to be delivered by Customer on a Firm basis and which Union will receive on a Firm basis when delivered by Customer.

"Obligated" means that quantity of Gas which Customer is committed to deliver to Union on a Firm basis at the Points of Receipt.

"Points of Consumption" or "Consumption Points" means, unless otherwise specified in this Contract, the outlet side of the Union measuring equipment located at Customer's or End User locations as specified in Schedule 1 or Schedule 3, as applicable.

"Rate Schedule" means the Ontario Energy Board approved rate schedule applicable to the Service being provided, (including schedules attached thereto), or such other replacement rate schedule as approved by the Ontario Energy Board from time to time.

"Receipt Service" means the approved receipt of Gas from Customer to Union at the Points of Receipt.

"Receipt Point" or "Points of Receipt" shall mean the points listed on Schedule 1 of this Contract where Union may receive Gas from Customer.

"Schedules" means the schedules attached to and forming part of this Contract.

"Seasonal" means any Service that is available during a specified period of the Year.

"Service(s)" means Receipt, Delivery or Storage Service as defined herein.

"Storage Service" means the space and deliverability service for storage under either Bundled Service or Unbundled Service.

"TCPL" means TransCanada PipeLines Limited.

"Transporter" means the transmission company that transports the Gas to the Receipt Point.

"Unbundled Service" means a Service provided by Union under which Customer will nominate and balance daily for Receipt, Storage and Delivery Services.

"Unionline" means Union's electronic web based system for Customer and Union to interact electronically, including but not limited to nominating and information exchange.

"When Available" means any interruptible Service that is available based on Union's sole discretion after Firm and Interruptible Services have been exhausted and is priced at the interruptible rate in the applicable Rate Schedule.

"Western" means the points of receipt on the TCPL system where Union is able to receive Gas.

"Year" means a period of 365 days; provided, however, that any such Year, which contains a date of February 29, shall consist of 366 days.