

# GasEDI

c/o Canadian Association of Petroleum Producers  
2100 - 350 - 7 Ave SW, Calgary, AB, Canada T2P 3N9

<http://www.gasedi.ca>

Project Manager: I. S. Anderson & Associates Limited • Tel: 403-243-1079 • Fax: 403-243-0546 • <http://www.isanderson.com>

## NEW GasEDI BASE CONTRACT FOR SALE AND PURCHASE OF NATURAL GAS

### Special Provisions by Party - Miscellaneous - June 25, 2004

The following Special Provisions re Miscellaneous were submitted for consideration:

#### Party A

Section 13 - Miscellaneous

Add the following confidentiality clause to section 13

13.11 This Contract shall be kept confidential by the Parties and neither Party shall divulge its content to any third party without the prior written consent of the other Party, unless and to the extent only that disclosure is required by law or by any governmental or regulatory body having jurisdiction.

#### Party B

##### SECTION 1. PURPOSE AND PROCEDURES

1. In Section 1.2(a), add the following in the fourth line after "agree that": "for Transactions seven (7) days or greater in duration, the" and add the following to the end of the section: "For Transactions less than seven (7) days, the parties agree that the recorded telephone conversation between the parties shall serve as verification of those Transactions. Any Transaction Confirmation received or sent by either party for deals less than seven (7) days shall be of no effect. All telephone recordings made by CPCL will be held and maintained in accordance with CPCL's information handling and security policies and any applicable provincial or federal information privacy legislation."

##### SECTION 2. DEFINITIONS

1. The following definition is inserted immediately after the definition of "Accelerated Payment Invoice":

"'Affiliate' of a party shall mean (i) any person or entity that directly or indirectly controls that party; (ii) any entity that is directly or indirectly controlled by that party; or (iii) any entity that is directly or indirectly controlled by the same person or entity."

2. In the definition of "Event of Default":

(i) in item (iii), delete in its entirety and replace with: "the failure to provide, and thereafter maintain so long as any Transactions are in effect, Performance Assurance in accordance with Section 10.1 by the end of the fifth (5th) Business Day after demand";

(ii) in item (iv), the words "on a Firm basis" are inserted immediately after "a party's failure to deliver or receive Gas;" and

(iii) in item (v), in the last line on page 3, add the word "material" before the first occurrence of the word "failure."

3. In the definition of "Performance Assurance," (i) insert "from a bank acceptable to the demanding party" following "credit" in the second line, (ii) add the words "pursuant to Section 10.1" after the words "Performance Assurance" in the second line and (iii) delete "or performance bond" from the third line.

4. The following is inserted immediately after the definition of "Event of Default":

"'Financial Information' shall mean a copy of such of the following reports as are available: (i) a copy of the party's most recent annual report or, if no annual report is available, then a copy of the most recent audited financial statements; (ii) a copy of all quarterly reports prepared since the most recent annual report; and (iii) where the party has a Guarantor, the reports described immediately above in (i) and (ii) of the Guarantor."

5. The following is inserted immediately after the definition of "GST":

"'Guarantor' shall mean the entity providing Performance Assurance to a party in the nature of a guarantee."

6. Amend the definition of "Reference Market Makers" by deleting "or the energy swap market" from the first line.

## SECTION 3. PERFORMANCE OBLIGATION

1. Section 3.2 - Under the heading "Spot Price Standard" add the words "plus \$0.01/GJ (or MMBtu where applicable)" in (i) after the words "Spot Price" and in (ii) after the words "Contract Price."

## SECTION 12. TERM

1. Section 12.1 - In the 2nd line delete the words "of any Transaction Confirmation."

## SECTION 13. MISCELLANEOUS

1. Section 13.5 - Insert the following at the end of the last sentence (only if we are dealing with an Alberta company):

"and the parties agree to submit to the jurisdiction of the courts of such jurisdiction and agree not to commence any action to enforce this Contract in any other jurisdiction."

2. Section 13.8 - Delete the second sentence and replace with:

"Each party represents and warrants that it has the full right and authority to execute this Contract and that this Contract constitutes a valid and legal binding obligation on it."

3. New Sections - The following additional Sections are inserted at the end of Section 13:

---

"13.11 Each party agrees that it will keep the specific terms and conditions of this Contract in strict confidence, and that it will not cause or permit disclosure of same to any third party without the express written consent of the other party; provided, however, disclosure by a party is permitted:

- (i) in the event and to the extent required by a court or governmental agency;
- (ii) to those employees of a Receiving Transporter if necessary to obtain transportation of Gas covered in any Transaction;
- (iii) to those directors of a party or to those employees, officers or directors of an Affiliate of a party, or to those professional advisors, auditors or consultants of a party who have a "need to know" the relevant details of this Contract and any Transaction provided they maintain its confidential status; and
- (iv) to the extent such information is delivered to a third party for the sole purpose of calculating a published index."

"13.12 If the Base Contract, specifies Alberta as the Choice of Jurisdiction, then the parties agree that the two (2) year period for seeking a remedial order under Section 3(1)(a) of the Limitations Act, RSA 2000 c. L-12, as amended, for any claim (as defined in that Act) arising in connection with this Contract is extended to:

- (i) for claims disclosed by an audit, two (2) years after the last day this Contract permits that audit to be performed; or
- (ii) for all other claims, four years."

"13.13 The parties agree that this Contract, all Transactions under this Contract, each and together constitute an "Eligible Financial Contract" within the meaning of the Bankruptcy and Insolvency Act (Canada), the Companies' Creditors Arrangement Act (Canada) and the Winding-Up and Restructuring Act (Canada) as each may be amended, restated, replaced or reenacted from time to time and is to be treated similarly in all proceedings related to any bankruptcy, insolvency or similar law regardless of the jurisdiction of application or competence of such law. Each party represents in connection with entering into this Contract and each Transaction that (i) it is a "Qualified Party" within the meaning of Section 9.1 of the Alberta Securities Commission's Order Doc No. 394043 made effective as of August 4, 2000, and paragraph 1.1 of the British Columbia Securities Commission Blanket Order BOR No. 91-501; and (ii) each Transaction constitutes a "commodity contract" or an "OTC derivative" or such other similar term as defined under the securities legislation in force in Alberta, British Columbia or Ontario."

"13.14 Seller shall have the sole and exclusive right, but not the obligation, to process the Gas to remove any liquid or liquefiable hydrocarbons prior to delivery at the Delivery Point(s). Any hydrocarbons removed by Seller shall belong to Seller and shall be Seller's sole responsibility. Any costs associated therewith (including transportation costs and plant thermal reduction) shall be borne by Seller and Seller shall indemnify, defend and hold Buyer harmless therefrom."

"13.15 Buyer shall have the sole and exclusive right, but not the obligation, to process the Gas to remove any liquid or liquefiable hydrocarbons at or after delivery at the Delivery Point(s). Any such hydrocarbons removed by Buyer shall belong to Buyer and shall be Buyer's sole responsibility. Any costs

---

associated therewith (including transportation costs and plant thermal reduction) shall be borne by Buyer and Buyer shall indemnify, defend and hold Seller harmless therefrom."

## Party C

### Section 1 - Purpose and Procedures

1. In line 4 of Section 1.2(a) after the words "confirm a Transaction" insert "having a term equal to or greater than one (1) Month", and in line 5 of Section 1.2 (a) replace the word, "next" with the words, "third (3rd)".

### Section 2 - Definitions

2. In the definition of "Event of Default"; third line, add the words "with respect to a party or its guarantor," immediately preceding the words "the making of an assignment"; after the words "(iv) a party's failure to deliver or receive Gas", add the words "on a Firm basis"; and at the end of the definition add "or (vi) a party makes any representation or warranty which is proven to have been false or misleading in any material respect at the time when the representation or warranty was given, or deemed repeated".

3. In the definition of "Market Value"; replace (ii) in its entirety with the following:

"(ii) quotations obtained by the Non-Defaulting Party, in good faith, from three Reference Market Makers, where the arithmetic average of the three quotations shall be the market price."

### Section 3 - Performance Obligation

4. In Section 3.1, the following words are added as the last sentence:

"Unless expressly agreed by the parties in the Transaction Confirmation or otherwise in writing, Seller and Buyer shall nominate Gas with respect to a Transaction so that such Gas will flow at a reasonably consistent rate (to the extent such rate of flow is within the control of the applicable party) over the course of each Day during the Delivery Period."

5. Add the following sentence at the end of Section 3.2 ("Spot Price Standard" ):

"The Non-Performing Party shall pay the Performing Party an administration fee of \$0.05 for each unit of Gas not delivered or taken each Day pursuant to a Transaction. "

### Section 13 - Miscellaneous

19. Insert as the last sentence of Section 13.5 the following: "Each party hereby irrevocably waives any and all rights it has or may acquire in the future to request a trial by jury in any action or proceedings hereunder."

20. Insert as Section 13.11 the following clause:

"13.11 Neither party shall disclose directly or indirectly without the prior written consent of the other party, which consent shall not be unreasonably withheld, the terms of any Transaction to a third party (other

---

than the employees, lenders, royalty owners, counsel, accountants and other agents of the disclosing party, or prospective purchasers of all or substantially all of a party's assets or of any rights under this Contract, provided such persons shall have agreed to keep such terms confidential) except (i) in order to comply with any applicable law, order, regulation, or exchange rule, (ii) to the extent necessary for the enforcement of this Contract, (iii) to the extent necessary to implement any Transaction, or (iv) to the extent such information is delivered to such third party on a no-name basis for the sole purpose of calculating a published index. Each party shall notify the other party of any proceeding of which it is aware which may result in disclosure of the terms of any Transaction (other than as permitted hereunder) and use reasonable efforts to prevent or limit the disclosure. The existence of this Contract is not subject to this confidentiality obligation."

21. Insert as Section 13.12 the following clause:

"13.12 Any original executed Base Contract, Transaction Confirmation, or other related document may be digitally copied and stored on computer tapes and disks (the "Imaged Agreement"). The Imaged Agreement (once digitally regenerated to paper form), an automated facsimile form, the recordings of telephonic communications, and all computer records of the foregoing, if introduced as evidence in any judicial, arbitration, mediation or administrative proceedings, will be admissible as between the parties to the same extent and under the same conditions as other business records originated and maintained in documentary form and neither party shall object on the basis that such business records were not originated or maintained in documentary form under any rule of evidence."

22. Insert as Section 13.13 the following clause:

"13.13 If a Market Disruption Event has occurred during a Trading Day, then the parties shall negotiate in good faith to agree on a Floating Price (or a method for determining a Floating Price) for the affected Trading Day, and if the parties have not so agreed on or before the second Business Day following the first Trading Day on which the Market Disruption Event occurred or existed, then the Floating Price shall be determined within the next two (2) following Business Days with each party obtaining in good faith two quotes from a leading dealer in the relevant market and averaging the four quotes. If either party fails to provide two quotes then the average of the other party's two quotes shall determine the Floating Price. "Floating Price" means the price or a portion of the price agreed to in the transaction as being based upon a specified index. "Market Disruption Event" means, with respect to an index, any of the following events: (a) the failure of the index to announce or publish information necessary for determining the Floating Price; (b) the failure of trading to commence or the permanent discontinuation or material suspension of trading in the relevant options contract or commodity on the exchange or market acting as the index; (c) the temporary or permanent discontinuance or unavailability of the index; (d) the temporary or permanent closing of any exchange acting as the index; or (e) both parties agree that a material change in the formula for or the method of determining the Floating Price has occurred. "Trading Day" means a day in respect of which the relevant price source published the relevant price."

23. Insert as Section 13.14 the following clause:

"13.14 The language used in this Contract is the product of both parties' efforts and each party hereby irrevocably waives the benefit of any rule of contract construction which disfavors the drafter of a contract or the drafter of specific language in a contract."

[Added when US business anticipated]

---

24. "Business Day" shall mean any day except Saturday, Sunday, or a statutory, federal or banking holiday observed in Alberta, Canada or in the United States. A Business Day shall open at 8:00 a.m. and close at 5:00 p.m. local time for the receiving party.

## Party D

### Section 2-Definitions

1. In Section 2.1 delete the words "or alternate fuels" in the third line of the definition of "Cover Standard".
2. In Section 2.1, the definition of "Event of Default" is amended by:
  - (a) deleting from the 2nd line the words "2 Business Days" and replacing with "1 Business Day";
  - (b) adding the words "with respect to a party or the Performance Assurance provider of a party" after "(ii)" in the 3rd line;
  - (c) adding the words "on a Firm basis" after the words "(iv) a party's failure to deliver or receive Gas"; and
  - (d) deleting the words "the greater of" and the words "or 5% of the number of Days in a Delivery Period, rounded up to a full Day" in the 8th line.

### Section 3-Performance Obligation

3. In Section 3.2 "Cover Standard" delete the words "or alternative fuels" in the 5th line.

### Section 13-Miscellaneous

13. In Section 13.10 delete the words "International Arbitration Rules of the American Arbitration Association" and replace with the words "then current National Arbitration Rules of the ADR Institute of Canada, Inc. The place of arbitration shall be Calgary, Alberta and the language of the arbitration shall be English."

14. A new Section 13.11 is added as follows: "The Contract, and any Performance Assurance thereof, each and together constitute an "eligible financial contract" under and in all proceedings related to the Companies' Creditors Arrangement Act (Canada), the Bankruptcy and Insolvency Act (Canada) or the Winding-Up and Restructuring Act (Canada), as the same may be amended, restated, replaced or re-enacted from time to time, and will be treated similarly under and in all proceedings related to any bankruptcy, insolvency or similar law (regardless of the jurisdiction of application or competence of such law) or any ruling, order, directive or pronouncement made pursuant thereto."

15. A new Section 13.12 is added as follows:

---

"The material terms of this Contract, including but not limited to the price paid for Gas and the Contract Quantity, shall be kept confidential by the parties hereto, and shall not be disclosed to any third party except:

- (i) to the extent that any information must be disclosed to a third party for the purpose of effectuating transportation of the Gas delivered hereunder;
- (ii) as may be required in submissions to regulatory agencies;
- (iii) as may be required by law or regulation;
- (iv) as may be reasonably required to enforce this Contract;
- (v) to an affiliate of that party; or
- (vi) to a party's legal and financial consultants."

## **Party E**

### Amendments To Section 1: Purpose and Procedures

The second sentence of Section 1.2.d is amended by adding before the period, "absent a party's assertion, whether before or after the Confirm Deadline, of manifest error in any of the commercial terms set forth in a Transaction Confirmation, in which case the terms of the Transaction Confirmation shall not have priority over the other terms."; by adding after the last sentence, "For purposes of this Section 1.2.d, "commercial terms" means any or all of the following provisions: Contract Price, Delivery Period, Performance Obligation, Contract Quantity, Delivery Point(s), and Special Conditions."

The last sentence of Section 1.2.d is deleted in its entirety and replaced with the following as Section 1.2.e:

"1.2.e The parties agree that all Gas purchase and sale transactions are entered into in reliance on the fact that the Contract, each Transaction hereunder, and each Transaction Confirmation shall constitute a single integrated agreement between the parties and the parties agree that they would not otherwise have entered into this Contract. The parties acknowledge that: (i) the basis for the parties entering into this Contract is that each party shall be entitled to set-off amounts owed by it under all of the Transactions against amounts owed to it under such Transactions so that the parties can reduce the overall exposure and credit risk each may have to the other; (ii) any amounts owing for the sale and purchase of Gas actually delivered are related to and should be set-off against any losses or damages arising from any breach of obligations or termination of further obligations, arising under or related to this Contract; and (iii) it would be inherently unfair for any trustee, monitor, receiver or similar official of one party to receive any amount for any portion of the obligations under the Transactions, whether performed or not, without set-off or deduction for any other outstanding obligations under or related to the Transaction."

Section 1.4 is amended to read as follows: "Each party consents to, and agrees, to the extent required by law, to obtain the consent of its agents and employees to the recording of telephone conversations between the parties regarding this Contract or any transaction. Each party shall be entitled to receive

---

from the other party, upon reasonable request, an accurate duplicate of the telephonic recording(s) made by the other party, if any, associated with a disputed Transaction."

## Amendments To Section 2: Definitions

"Base Contract" is amended by inserting "and any Special Provisions" after "General Terms and Conditions".

"Business Day" is amended by, in the first sentence, deleting "specified pursuant to Section 13.5" and inserting before the period, "of the relevant party's principal place of business".

"Contract Value" is amended by inserting at the end of Section after the period: "Any extension(s) of the term of a transaction to which parties are not bound as of the Early Termination Date (including but not limited to "evergreen provisions") shall not be considered in determining Contract Value. For the avoidance of doubt, any option pursuant to which one party has the right to extend the term of a Transaction shall be considered in determining Contract Value.

"Costs" is amended, in its entirety, to read as follows: " 'Costs' shall mean all out-of-pocket expenses incurred by the Non-Defaulting Party as a result of termination and liquidation of Transactions pursuant to Section 10, including, without limitation, reasonable legal fees and costs, brokerage fees, commissions and expenses incurred in obtaining, maintaining, replacing or liquidating hedges or trading positions relating to the Transactions that are being terminated."

"Cover Standard" is amended by deleting "or alternate fuels" after "Gas" in the third line.

"Event of Default" is amended to read as follows:

"Event of Default" shall mean (i) the failure to make payment when due under the Contract, which is not remedied within 2 Business Days after receiving Notice thereof (except for a failure to pay an Accelerated Payment Invoice which shall immediately constitute an Event of Default); (ii) the making of an assignment or any general arrangement for the benefit of creditors, the filing of a petition or otherwise commencing, authorizing, or acquiescing in the commencement of a proceeding or cause under any bankruptcy or similar law for the protection of creditors or having such a petition filed or proceeding commenced against it, any bankruptcy or insolvency (however evidenced) or the inability to pay debts as they fall due, and, in the case of any such proceeding instituted against it, the proceeding is not dismissed, discharged or stayed within 30 days of it being instituted"; (iii) the failure to provide Performance Assurance in accordance with Section 10.1; (iv) a party (a) seeks relief under any companies or corporations legislation respecting creditor's rights, including without limitation, the Business Corporations Act (Canada) or similar provincial legislation; (b) takes steps for, or becomes the subject of, any proceeding for liquidation, dissolution, official management or winding up (other than pursuant to a consolidation, amalgamation or merger), and if the proceeding is instituted against it, the proceeding is not dismissed, discharged or stayed within 10 days of being instituted; or (c) has a secured party take possession of all or substantially all of its assets, or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all of its assets; (v) the failure to perform any other material obligation under the Contract, other than to deliver or accept delivery of Gas which remedy is as set forth in Section 7.7, if not remedied within three Business Days after receiving Notice thereof; or (vi) with respect to a party or a party's guarantor, that such party or guarantor consolidates or amalgamates with, or merges into or with, or transfers substantially all of its assets to another entity and, at the time of such consolidation, amalgamation, merger or transfer, (a) the resulting entity fails to assume all of the

---

obligations of such party or guarantor hereunder, (b) the benefits of any credit support provided under this Agreement or any Credit Support Agreement fail to extend to the performance by such resulting, surviving or transferee entity of its obligations hereunder, or (c) the resulting entity's creditworthiness is materially weaker than that of such party or guarantor immediately prior to such action."

"Market Value" is amended by replacing item (ii) with the following: "(ii) quotations obtained by the Non-Defaulting Party, in good faith, from three Reference Market Makers, where the arithmetic average of the three quotations shall be the market price; provided, however, that if such quotations are not readily available, or the quotations will not reflect comprehensive treatment of the pricing structure for Terminated Transactions, as determined in the reasonable discretion of the Non-Defaulting Party, the Non-Defaulting Party shall establish the Market Value by considering any or all of the following: the settlement prices of NYMEX Gas futures contracts, similar sales or purchases of Gas, a bona fide offer from a third party in an arm's length negotiation for a replacement transaction or information available to it internally, including, without limitation, information on relevant rates, prices, yields, yield curves, volatilities, spreads and other relevant market data in the relevant market, all adjusted for the length of the term and differences in transportation costs. A party shall not be required to enter into a replacement transaction in order to determine the Market Value. Any extension(s) of the term of a Transaction to which parties are not bound as of the Early Termination Date (including but not limited to "evergreen provisions") shall not be considered in determining Market Value. For the avoidance of doubt, any option pursuant to which one party has the right to extend the term of a Transaction shall be considered in determining Market Values."

"Potential Event of Default" is deleted in its entirety.

"Reference Market Makers" is amended by adding the following at the end of the first line after "energy swap market": "which are not an Affiliate of either party,".

"Spot Price" is amended, by adding the following at the end of the definition: "Notwithstanding the foregoing, where the publication specified by the parties in the Base Contract is the Canadian Gas Price Reporter and the designated Delivery Point is NOVA Inventory Transfer ("NIT"), the Spot Price shall be the price for the day on which the breach occurred, as quoted in the first edition of the Canadian Gas Price Reporter in the month immediately following the month in which such day falls, in the table "Canadian Domestic Gas Price Report" "Daily Spot Gas Price at AECO C & Nova Inventory Transfer" under the column "Avg.\*" and the row for that specific day; except that (1) where such day is a Friday, a Saturday, a Sunday, or a holiday in Alberta which falls on a Monday or Friday, the row "Weekend#" shall be used; and (2) where such a day is a holiday in Alberta which falls on a Tuesday, Wednesday or Thursday, the row for the preceding day shall be used."

Section 2.1 is further amended by adding the following definitions at the end thereof:

"Affiliate(s)" shall mean, with respect to any party, any entity controlled, directly or indirectly, by such party, any entity that controls, directly or indirectly, such party, or any entity directly or indirectly under common control with such party and for this definition, "control" of any entity or party means ownership of a majority of the issued shares or voting power of such entity or party, or a majority interest in a partnership or control in fact of the entity or party.

"Collateral" means any or all of the following: (i) cash, (ii) letter(s) of credit, (iii) a prepayment, (iv) a bank guarantee, or (v) other good and sufficient security of a continuing nature acceptable to the receiving party. In the case of letter(s) of credit or bank guarantees, such Collateral shall be in a format and from an issuer acceptable at all times to the receiving party.

"Credit Support Agreement" shall mean any Collateral provided by a party's credit support provider (e.g. a guarantor or a letter of credit provider) or any agreement which is entered into between the parties pursuant to which Collateral is provided or is required to be provided to a party (e.g. a margin or security agreement)."

"Currency Equivalent" shall mean the amount in Canadian dollars that the Non-Defaulting Party would be required to pay, as at the Early Termination Date, to purchase such amount of U.S. dollars based on the rate of exchange determined by the Bank of Canada at 12:00 noon on such Early Termination Date.

## Amendments To Section 3: Performance Obligation

Section 3.2 (Cover Standard) is amended by deleting "or alternative fuel" after "Gas" in the fifth line.

## Amendments To Section 13: Miscellaneous

Section 13.1 is amended as follows: (1) the last sentence is deleted in its entirety; (2) the portion of the second sentence after "withheld or delayed;" is replaced with the following: "provided that either party may transfer or assign this Contract to any Affiliate or person, partnership or entity succeeding to all or substantially all of the transferring party's assets if (A) the transferring party or its guarantor, if any, agree in writing to remain liable for the obligations of the transferee or (B) the creditworthiness of the transferee is equal to or better than that of the transferring party or its guarantor, if any, immediately preceding such transfer and the transferee agrees in writing to be bound by this Contract, and (C) in the case of either (A) or (B) the transfer has no adverse tax consequences to the non-assigning party."

Section 13.3 is amended by adding the following language at the end of the Section: ", and any waiver of any breach of this Contract by a party shall not be effective unless it is in writing".

Section 13.9 is deleted in its entirety and replaced with the following language: "For currency conversions required under the Contract, to convert Canadian or United States currency to the other, the parties shall use the Currency Equivalent as defined in this Contract."

## 13.10 Arbitrations.

13.10.1 Any dispute or claim arising out of or relating to this Contract, or a breach thereof ("Dispute"), shall be decided by final and binding arbitration in Calgary before three arbitrators. The arbitration shall be administered by the American Arbitration Association ("AAA") in accordance with the Arbitration Act (Alberta) ("Act") and the AAA's International Arbitration Rules ("Rules"). If there is a conflict between the provisions of this Section 13.11 and the provisions of the Act or the Rules, the provisions of this Section 13.11 shall prevail. If there is a conflict between the Act and the Rules, the provisions of the Act shall prevail. Either party may notify the other that the Dispute is to be resolved pursuant to this Section 13.11, and in that notice name one arbitrator selected by it. Within 15 days after the receipt of such notice, the other party shall select an arbitrator and notify the party which initiated the arbitration of the name of its arbitrator. Within 15 days after the appointment of the second arbitrator, the two arbitrators selected shall select a third arbitrator. If any party fails to appoint an arbitrator or the party-appointed arbitrators fail to appoint the third arbitrator within these time periods, then either party may ask the AAA to appoint such arbitrators within 15 days of its request with due regard for the selection criteria herein.

13.10.2 The arbitrators selected under this Section 13.10 shall be qualified by education, experience or training to render a decision upon the issues of the Dispute. At the time of the first hearing or earlier, if requested by a party, each arbitrator shall submit to each party a statement setting forth his qualifications to act and disclosing any circumstances which might preclude him from rendering an unbiased award based solely upon an objective and impartial consideration of the evidence presented to him, including disclosure of close personal ties or business relations with any of the parties, counsel for the parties, or the other arbitrators. After receipt of the arbitrators' statements, a party may challenge an arbitrator by presenting to the other party and to the arbitrators the ground for the challenge. The challenged arbitrator may promptly withdraw, after which a substitute shall be selected under Section 13.10.1. If the arbitrator refuses to withdraw, claiming the grounds for the challenge are without sufficient merit, the arbitration shall proceed and the parties shall have whatever recourse may be granted to them under the Act.

13.10.3 The arbitrators promptly shall hear and determine (after giving the parties due notice of hearing and reasonable opportunity to be heard) the issues submitted to them and shall render their decision within 60 days after they have notified the parties that the arbitration hearings have been closed or, if oral hearings have been waived, from the date of the AAA's transmittal of the parties' final statements and proofs to the arbitrators. If the arbitrators have not rendered their decision within such 60 day period, either party may, by notice to the other Party and the AAA, declare the arbitration null and void, at which time the arbitrators shall be dismissed by the AAA. Either party may demand arbitration of the same Dispute on account of which an arbitration proceeding has been declared null and void if that party's demand is made pursuant to this Section 13.10 within 15 days of that declaration. Discovery and other pre-hearing procedures shall be conducted as agreed by the parties, or if they cannot agree, as determined by a majority of the arbitrators. Pending the final decision of the arbitrators, both parties shall proceed diligently with performance of all obligations under this Contract, including the payment of all sums not in dispute. Notwithstanding the foregoing the parties reserve the right to apply to any court of competent jurisdiction for the purpose of enforcing the provisions of this Section 13.10 or obtaining security or other provisional relief to satisfy or effectuate an eventual arbitration award, including without limitation attachment and injunctive relief. The commencement of any such action shall not constitute a waiver of the right to arbitration nor shall it prejudice in any way the right to proceed to arbitration.

13.10.4 The arbitrators shall render their decision and the reasons therefor in writing. The decision of a majority of the arbitrators shall be final and binding upon the parties without appeal to the courts. Judgment may be rendered upon such decision in a court of competent jurisdiction. The arbitrators are not empowered to render any award other than monetary damages or to award damages inconsistent with the provisions of this Contract, any transaction or in excess of compensatory damages, and each party waives its right, if any, to recover any damages in excess of those provided for under this Contract or any transaction. Each party shall bear the costs and expenses of its own arbitrator, attorneys and witnesses and the parties shall share equally the costs of the third arbitrator and any hearing expenses. In determining any matter submitted to arbitration, the arbitrators will apply the law of Alberta, provided that the parties agree that Section 13 of the Natural Gas Marketing Act (Alberta), or any successor section, will not be applicable to any arbitration conducted under this Contract.

Section 13 is further amended by adding the following new Sections 13.11 and 13.12:

"13.11 For the purpose of any amounts calculated hereunder where the price is indicated as being based upon a published index price (the "Reference Price"), the following shall apply. The Reference Price shall cease to be available if (i) it is discontinued or no longer published or updated, (ii) the method for calculating the Reference Price or the components used in determining it are changed in a material way,

---

or (iii) the relevant posting point ceases to exist for whatever reason. If the Reference Price ceases to be available, and if the publication reporting the Reference Price prior to its unavailability has suggested an alternate index or methodology for determining the Reference Price, then the alternate Reference Price shall be that suggested by such publication. If none is suggested, then the parties agree to promptly and in good faith negotiate an alternate Reference Price. If the parties do not agree on a substitute methodology or index by the end of the first Month for which the Reference Price was not available, then each party shall in good faith prepare a list of five alternate published reference postings or prices representative of spot prices for Gas delivered in the same geographic area. Each list shall be set forth in that party's priority order with the highest priority index listed first. Each party shall submit its list to the other within ten (10) Days after the end of the first Month for which the price could not be determined as set forth above. The first listed index appearing in Seller's list that also appears in Buyer's list shall constitute the alternate Reference Price. If either party fails to provide a list of that party's alternative published references as provided above, such party's list shall not be considered, and the first listed reference posting or price appearing in the other party's submitted list shall constitute the alternate Reference Price. From the date the Reference Price is no longer available ("Renegotiation Date"), until the alternate Reference Price is determined, the Reference Price shall be deemed to be the average of the Reference Price(s) in effect during the twelve (12) Months preceding the Month in which the Renegotiation Date occurred, which price shall be effective until the alternate Reference Price is determined as set forth above. Upon determination of a new alternate Reference Price, the Reference Price will be adjusted retroactively to the Renegotiation Date.

13.12 EACH PARTY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY PROCEEDINGS RELATING TO THESE SPECIAL PROVISIONS, THE BASE CONTRACT OR ANY TRANSACTION THEREUNDER."

## **Party F**

No comments.

## **Party G**

The following changes are made to the General Terms and Conditions:

1. In the absence of a written agreement to the contrary, all outstanding Transactions will be subject to and governed by the terms of this Contract including Transactions entered into prior to the effective date of this Contract.
2. The definition of "Event of Default" (iv) shall be amended by deleting the word "cumulative" and replacing it with the word "successive".
3. The definition of "Market Value" shall be amended by deleting subsection (ii) and replacing it with the following: "(ii) quotations obtained by the Non-Defaulting Party, in good faith, from three Reference Market Makers where the arithmetic average of the three quotations shall be the market price."
4. Section 1.2.a is amended by adding after "Business Day" the following sentence:

"Further, when XXXXXXXXXXXX is the Confirming Party, it shall only confirm a Transaction with a delivery term greater than three days."

5. Section 1.2.c is amended by adding the following to the end of the Section:

"For greater clarity, the failure of both parties to provide a confirmation does not negate the existence of an agreement, the evidence of which shall be confirmed as set out in Section 1.2.d below."

6. Section 1.2.d is amended by adding the following before the last sentence:

"Notwithstanding the foregoing, written Transaction Confirmations shall only supersede recordings as the best evidence for a Transaction when such Transaction has a delivery term greater than one day or which does not occur solely through a weekend."

13. Section 13.1 shall be amended by inserting the following words between "affiliate" and "by assignment":

"of equal or better creditworthiness in the reasonable opinion of the other party"

14. Section 13.10 shall be deleted and replaced with the following:

"Any claim, counterclaim, demand, cause of action, dispute, and controversy arising out of or relating to this Contract or the relationship established by this Contract, any provision hereof, the alleged breach thereof, or in any way relating to the subject matter of this Contract, involving the parties and/or their respective representatives (collectively the "Claims"), even though some or all of such Claims allegedly are extra-contractual in nature, whether such Claims sound in contract, tort, or otherwise, at law or in equity, under provincial, state or federal law, whether provided by statute or the common law, for damages or any other relief, shall be resolved by binding and non-appealable arbitration.

The parties agree that all disputes arising out of or relating to this contract shall be determined by final and binding arbitration conducted in accordance with the CPR Institute for Dispute Resolution Rules for Non-administered Arbitration of International Disputes. The site of the arbitration shall be in Calgary, Alberta and the language of the arbitration shall be in English. The validity, construction, and interpretation of this agreement to arbitrate, and all procedural aspects of the arbitration conducted pursuant hereto shall be decided by the arbitrators. In deciding the substance of the parties' Claims, the arbitrators shall refer to the laws of the jurisdiction specified by the parties in the Base Contract. It is agreed that the Arbitrators shall have no authority to award treble, exemplary or punitive damages of any type under any circumstances whether or not such damages may be available under provincial, state or federal law, or under any applicable Arbitration Act, the parties hereby waiving their right, if any, to recover any such damages.

Within thirty days of the notice of initiation of the arbitration procedure, each party shall select one arbitrator. The two arbitrators shall select a third arbitrator. The third arbitrator shall be a person who has experience in the oil and gas industry and who has not previously been employed by either party and does not have a direct or indirect interest in either party or the subject matter of the arbitration. While the third arbitrator shall be neutral, the two party-appointed arbitrators are not required to be neutral, and it shall not be grounds for removal of either of the two party-appointed arbitrators or for vacating the arbitrators' award that either of such arbitrators has past or present minimal relationships with the party that appointed such arbitrator.

---

To the fullest extent permitted by law, any arbitration proceeding and the arbitrators award shall be maintained in confidence by the parties."

15. The following shall be added as Section 13.11:

"When this Contract is to be interpreted and governed pursuant to the laws of the Province of Alberta, then pursuant to Section 7 of the Limitations Act, R.S.A. 2000 c. L-12 the parties agree that the two (2) year period for seeking a remedial order under section 3(1)(a) of the Limitations Act, R.S.A. 2000 c. L-12, as amended, for any claim (as defined in that Act) arising in connection with this Contract is extended to:

- a) for claims disclosed by an audit, two (2) years after the last day this Contract permits that audit to be performed; or
- b) for all other claims, four (4) years."

16. The following shall be added as Section 13.12:

"The parties agree that this Contract is an "eligible financial contract" within the meaning of Canadian bankruptcy and insolvency law."

17. The following shall be added as Section 13.13:

"Neither party shall disclose without the prior written consent of the other party the terms of any Transaction to a third party except (i) in order to comply with any applicable law, order, regulation, or exchange rule, (ii) as may be required to enforce this Contract, (iii) as may be required to implement any Transaction, or (iv) when information is delivered to a third party for the sole purpose of calculating a published index. Each party shall notify the other party of any proceeding of which it is aware which may result in disclosure of the terms of any Transaction (other than as permitted hereunder) and use reasonable efforts to prevent or limit the disclosure. Subject to Section 14, the parties shall be entitled to all remedies available at law or in equity to enforce, or seek relief in connection with this confidentiality obligation.

## **Party H**

1. In the absence of a written agreement to the contrary, all outstanding Transactions will be subject to and governed by the terms of this Contract including Transactions entered into prior to the effective date of this Contract.

2. The definition of "Event of Default" (iv) shall be amended by deleting the word "cumulative" and replacing it with the word "successive".

3. The definition of "Market Value" shall be amended by deleting subsection (ii) and replacing it with the following:

"(ii) quotations obtained by the Non-Defaulting Party, in good faith, from three Reference Market Makers where the arithmetic average of the three quotations shall be the market price."

4. Section 1.2.a is amended by adding after "Business Day" the following sentence:

"Further, when XXXXXXXXXXXX is the Confirming Party, it shall only confirm a Transaction with a delivery term greater than three days."

5. Section 1.2.c is amended by adding the following to the end of the Section:

"For greater clarity, the failure of both parties to provide a confirmation does not negate the existence of an agreement, the evidence of which shall be confirmed as set out in Section 1.2.d below."

6. Section 1.2.d is amended by adding the following before the last sentence:

"Notwithstanding the foregoing, written Transaction Confirmations shall only supersede recordings as the best evidence for a Transaction when such Transaction has a delivery term greater than one day or which does not occur solely through a weekend."

13. Section 13.1 shall be amended by inserting the following words between "affiliate" and "by assignment":

"of equal or better creditworthiness in the reasonable opinion of the other party"

14. Section 13.10 shall be deleted and replaced with the following:

"Any claim, counterclaim, demand, cause of action, dispute, and controversy arising out of or relating to this Contract or the relationship established by this Contract, any provision hereof, the alleged breach thereof, or in any way relating to the subject matter of this Contract, involving the parties and/or their respective representatives (collectively the "Claims"), even though some or all of such Claims allegedly are extra-contractual in nature, whether such Claims sound in contract, tort, or otherwise, at law or in equity, under provincial, state or federal law, whether provided by statute or the common law, for damages or any other relief, shall be resolved by binding and non-appealable arbitration.

The parties agree that all disputes arising out of or relating to this contract shall be determined by final and binding arbitration conducted in accordance with the CPR Institute for Dispute Resolution Rules for Non-administered Arbitration of International Disputes. The site of the arbitration shall be in Calgary, Alberta and the language of the arbitration shall be in English. The validity, construction, and interpretation of this agreement to arbitrate, and all procedural aspects of the arbitration conducted pursuant hereto shall be decided by the arbitrators. In deciding the substance of the parties' Claims, the arbitrators shall refer to the laws of the jurisdiction specified by the parties in the Base Contract. It is agreed that the Arbitrators shall have no authority to award treble, exemplary or punitive damages of any type under any circumstances whether or not such damages may be available under provincial, state or federal law, or under any applicable Arbitration Act, the parties hereby waiving their right, if any, to recover any such damages.

Within thirty days of the notice of initiation of the arbitration procedure, each party shall select one arbitrator. The two arbitrators shall select a third arbitrator. The third arbitrator shall be a person who has experience in the oil and gas industry and who has not previously been employed by either party and does not have a direct or indirect interest in either party or the subject matter of the arbitration. While the third arbitrator shall be neutral, the two party-appointed arbitrators are not required to be neutral, and it shall not be grounds for removal of either of the two party-appointed arbitrators or for vacating the arbitrators' award that either of such arbitrators has past or present minimal relationships with the party that appointed such arbitrator.

---

To the fullest extent permitted by law, any arbitration proceeding and the arbitrators award shall be maintained in confidence by the parties."

15. The following shall be added as Section 13.11:

"When this Contract is to be interpreted and governed pursuant to the laws of the Province of Alberta, then pursuant to Section 7 of the Limitations Act, R.S.A. 2000 c. L-12 the parties agree that the two (2) year period for seeking a remedial order under section 3(1)(a) of the Limitations Act, R.S.A. 2000 c. L-12, as amended, for any claim (as defined in that Act) arising in connection with this Contract is extended to:

(a) for claims disclosed by an audit, two (2) years after the last day this Contract permits that audit to be performed; or

(b) for all other claims, four (4) years."

16. The following shall be added as Section 13.12:

"The parties agree that this Contract is an "eligible financial contract" within the meaning of Canadian bankruptcy and insolvency law."

17. The following shall be added as Section 13.13:

"Neither party shall disclose without the prior written consent of the other party the terms of any Transaction to a third party except (i) in order to comply with any applicable law, order, regulation, or exchange rule, (ii) as may be required to enforce this Contract, (iii) as may be required to implement any Transaction, or (iv) when information is delivered to a third party for the sole purpose of calculating a published index. Each party shall notify the other party of any proceeding of which it is aware which may result in disclosure of the terms of any Transaction (other than as permitted hereunder) and use reasonable efforts to prevent or limit the disclosure. Subject to Section 14, the parties shall be entitled to all remedies available at law or in equity to enforce, or seek relief in connection with this confidentiality obligation.

18. The following shall be added as Section 15 - "Specific Terms and Conditions of Transactions Entered into on a Reserve Decline Basis":

15.1 "Definitions:

"Daily Contract Quantity" or "DCQ" means the volume of gas that Seller is required to make available and the Buyer is required to take per day as described in a Transaction;

"Reserve Failure" means a special event of force majeure where Seller's gas reserves, which have the capability and capacity to produce and deliver volumes of gas equal to the DCQ at the Delivery Point, fail through ordinary production decline or otherwise resulting in Seller's inability to deliver the full DCQ to the Delivery Point."

"Reserve Decline Basis" shall mean that either party may interrupt its performance without liability only to the extent that such performance is:

- i) excused by the other party's Non-Performance; or
- ii) is prevented by Force Majeure or Reserve Failure; or

iii) for a Transaction where the Delivery Point is at the custody transfer meter at the tailgate of the processing plant (plantgate), curtailment of the interruptible transportation to be utilized by Buyer to receive Seller's Gas at the Delivery Point where such interruptible transportation is specified in that Transaction as agreed to by the parties.

15.2 The following changes are made to the General Terms and Conditions with respect to Performance Obligation:

Section 1.1 and Section 3.1 are hereby amended by replacing "Firm or 'Interruptible" with "Firm, Interruptible or Reserve Decline".

15.3 "Contract Volume:

Subject to the provisions hereof, Buyer shall purchase and take delivery from Seller and Seller shall sell and deliver to Buyer each day during the period of delivery under a Transaction, on a Firm basis, a volume of gas equal to the DCQ. Seller shall be relieved from its obligations hereunder to sell and deliver to the Buyer at the Delivery Point and Buyer shall be relieved from its obligation to purchase and take delivery from Seller, volumes of gas equal to the DCQ to the extent (but only to the extent) of a Reserve Failure; provided that if at any time after such Reserve Failure, Seller re-acquires the capability of re-instating volumes back to the DCQ at the Delivery Point, it shall immediately upon notice to the Buyer, and subject to the Buyer's concurrence and consent thereto, re-commence deliveries at the Delivery Point to the level of the DCQ; and further provided that, at no time during the duration of a Reserve Failure shall Seller sell gas to a third party which could reasonably and economically be delivered to the Delivery Point without Seller first seeking to re-commence deliveries at the Delivery Point to the level of the DCQ as herein provided."

15.4 "Force Majeure:

For the purposes of Transactions entered into on a Reserve Decline Basis, the term "force majeure" shall have the same meanings and operations ascribed to as indicated in Section 11 of this Contract with the exception that Seller's failure of reserves and deliverability of reserves are considered events of force majeure, more specifically defined as a Reserve Failure as provided in Section 15.1 and with the further exception that the requirement for written Notice shall be waived."

15.5 "Liquidated Damages:

For the purposes of Transactions entered into on a Reserve Decline Basis, the remedy for breach of a Firm obligation by Buyer or Seller shall be calculated in the same manner as described in Section 3.2 of this Contract."

## **Party I**

1. In the absence of a written agreement to the contrary, all outstanding Transactions will be subject to and governed by the terms of this Contract including Transactions entered into prior to the effective date of this Contract.

2. The definition of "Event of Default" (iv) shall be amended by deleting the word "cumulative" and replacing it with the word "successive".

3. The definition of "Market Value" shall be amended by deleting subsection (ii) and replacing it with the following:

"(ii) quotations obtained by the Non-Defaulting Party, in good faith, from three Reference Market Makers where the arithmetic average of the three quotations shall be the market price."

4. Section 1.2.a is amended by adding after "Business Day" the following sentence: "Further, when YYYYYYYYYY Inc. is the Confirming Party, it shall only confirm a Transaction with a delivery term greater than three days."

5. Section 1.2.c is amended by adding the following to the end of the Section:

"For greater clarity, the failure of both parties to provide a confirmation does not negate the existence of an agreement, the evidence of which shall be confirmed as set out in Section 1.2.d below."

6. Section 1.2.d is amended by adding the following before the last sentence:

"Notwithstanding the foregoing, written Transaction Confirmations shall only supersede recordings as the best evidence for a Transaction when such Transaction has a delivery term greater than one day or which does not occur solely through a weekend."

11. Section 13.1 shall be amended by inserting the following words between "affiliate" and "by assignment":

"of equal or better creditworthiness in the reasonable opinion of the other party"

12. Section 13.10 shall be deleted and replaced with the following:

"Any claim, counterclaim, demand, cause of action, dispute, and controversy arising out of or relating to this Contract or the relationship established by this Contract, any provision hereof, the alleged breach thereof, or in any way relating to the subject matter of this Contract, involving the parties and/or their respective representatives (collectively the "Claims"), even though some or all of such Claims allegedly are extra-contractual in nature, whether such Claims sound in contract, tort, or otherwise, at law or in equity, under provincial, state or federal law, whether provided by statute or the common law, for damages or any other relief, shall be resolved by binding and non-appealable arbitration.

The parties agree that all disputes arising out of or relating to this contract shall be determined by final and binding arbitration conducted in accordance with the CPR Institute for Dispute Resolution Rules for Non-administered Arbitration of International Disputes. The site of the arbitration shall be in Calgary, Alberta and the language of the arbitration shall be in English. The validity, construction, and interpretation of this agreement to arbitrate, and all procedural aspects of the arbitration conducted pursuant hereto shall be decided by the arbitrators. In deciding the substance of the parties' Claims, the arbitrators shall refer to the laws of the jurisdiction specified by the parties in the Base Contract. It is agreed that the Arbitrators shall have no authority to award treble, exemplary or punitive damages of any type under any circumstances whether or not such damages may be available under provincial, state or federal law, or under any applicable Arbitration Act, the parties hereby waiving their right, if any, to recover any such damages.

Within thirty days of the notice of initiation of the arbitration procedure, each party shall select one arbitrator. The two arbitrators shall select a third arbitrator. The third arbitrator shall be a person who has experience in the oil and gas industry and who has not previously been employed by either party and does not have a direct or indirect interest in either party or the subject matter of the arbitration. While the third arbitrator shall be neutral, the two party-appointed arbitrators are not required to be neutral, and it shall not be grounds for removal of either of the two party-appointed arbitrators or for vacating the arbitrators' award that either of such arbitrators has past or present minimal relationships with the party that appointed such arbitrator.

To the fullest extent permitted by law, any arbitration proceeding and the arbitrators award shall be maintained in confidence by the parties."

13. The following shall be added as Section 13.11:

"When this Contract is to be interpreted and governed pursuant to the laws of the Province of Alberta, then pursuant to Section 7 of the Limitations Act, R.S.A. 2000 c. L-12 the parties agree that the two (2) year period for seeking a remedial order under section 3(1)(a) of the Limitations Act, R.S.A. 2000 c. L-12, as amended, for any claim (as defined in that Act) arising in connection with this Contract is extended to:

(a) for claims disclosed by an audit, two (2) years after the last day this Contract permits that audit to be performed; or

(b) for all other claims, four (4) years."

14. The following shall be added as Section 13.12:

"The parties agree that this Contract is an "eligible financial contract" within the meaning of Canadian bankruptcy and insolvency law."

15. The following shall be added as Section 13.13:

"Neither party shall disclose without the prior written consent of the other party the terms of any Transaction to a third party except (i) in order to comply with any applicable law, order, regulation, or exchange rule, (ii) as may be required to enforce this Contract, (iii) as may be required to implement any Transaction, or (iv) when information is delivered to a third party for the sole purpose of calculating a published index. Each party shall notify the other party of any proceeding of which it is aware which may result in disclosure of the terms of any Transaction (other than as permitted hereunder) and use reasonable efforts to prevent or limit the disclosure. Subject to Section 14, the parties shall be entitled to all remedies available at law or in equity to enforce, or seek relief in connection with this confidentiality obligation.

## Party J

### SECTION 1 - PURPOSE AND PROCEDURES

1. In Section 1.2.a, add "if recorded" after "orally".

2. In Sections 1.2b and 1.2c, add to the end of each section, the words, "absent manifest error".

3. Insert "Subject to 1.2d" immediately prior to the words "The failure of" in each of Sections 1.2b and 1.2c.
4. In Section 1.2d(i), delete the words "an effective Transaction Confirmation" and replace the words with "a written Transaction Confirmation which has been signed by both parties".
5. In Section 1.2d(ii), insert at the end, the words "if recorded, securely stored and available to both parties".

## SECTION 2 - DEFINITIONS

6. In Section 2.1 - Definitions: "Business Day" and "Confirm Deadline", replace "5:00 p.m." with "4:00 p.m.".
7. In Section 2.1 - Definitions: "Cover Standard", delete the words "or alternate fuels" .
8. In Section 2.1 - Definitions: "Day", delete the entire definition and replace it with the following:

""Day" shall mean a period of twenty four (24) consecutive hours from 9:00 a.m. to 9:00 a.m. central clock time."

9. In Section 2.1 - Definitions: "Event of Default", add the words "on a Firm basis" after the words "(iv) a party's failure to deliver or receive Gas".
10. In Section 2.1 - Definitions: "Event of Default", delete the entire part (ii) and replace with the following:

"a party committing an act of bankruptcy as defined in the Bankruptcy and Insolvency Act (Canada), a party or its assets becoming the subject of any proceeding (whether initiated by such party or another person) under bankruptcy or insolvency laws, including without limitation, proceedings under the Companies' Creditors' Arrangement Act (Canada), a party becoming the subject of any proceeding for liquidation, reorganization or winding up (whether initiated by such party or by another person), or, the appointment of a receiver or receiver manager of all or any part of the assets of a party by any of the party's creditors or by a court of a competent jurisdiction, or, the inability to pay debts as they fall due;"

11. In Section 2.1 - Definitions: "Market Value", change the word "gas" to "Gas".
12. In Section 2.1 - Definitions: "Reference Market Makers", insert the words "that are not affiliated with a party," immediately after "highest credit standing,".
13. In Section 2.1 - Definitions: "Present Value Discount Rate", delete the entire definition and replace it with the following:

""Present Value Discount Rate" shall mean with respect to any Transaction: zero percent (0.00%)."

14. In Section 2.1 - Definitions: "Termination Payment", the following words are inserted "For greater certainty and notwithstanding whether Buyer or Seller is the Defaulting Party, if Market Value exceeds Contract Value, adjusted for Costs, Seller will pay Buyer the Termination Payment. If Contract Value exceeds Market Value, adjusted for Costs, Buyer will pay Seller the Termination Payment."

15. In Section 2.1 - Definitions "Transaction", change the word "gas" to "Gas".
16. In Section 2.1 - Definitions: "Transporter(s)", insert the word "immediately" after "Buyer".

## SECTION 3 - PERFORMANCE OBLIGATION

17. In Section 3.2: "Cover Standard", delete the words "or alternative fuels" in line five.
18. In Section 3.2: "Cover Standard", add the words "including any unutilized demand charges incurred by one party as a result of the other parties' failure to perform" in (i) before "multiplied by" and in (ii) also before "multiplied by".

## SECTION 9 - NOTICES

21. In Section 9.3, delete the word "five" in line four and replace the word with "four".

## SECTION 13 - MISCELLANEOUS

27. In Section 13.5, add the word "exclusive" in between "the" and "jurisdiction".

28. Add the following new Section 13.11:

"The parties agree that they will maintain this Contract and all parts and contents hereof in strict confidence, unless otherwise agreed to in writing."

29. Add the following new Section 13.12:

"Each party to this Contract represents and warrants that this Contract is an "eligible financial contract" within the meaning of the Companies' Creditors Arrangement Act (Canada)."

## Party K

### SECTION 2 - DEFINITIONS

1. In the definition of "Cover Standard", delete the following wording "or alternate fuels".
2. In the definition of Day, remove and replace it with the following definition of Day: "Day" shall mean a period of 24 consecutive hours, beginning and ending at the times specified in the Tariff for the Receiving Transporter delivering gas to the Delivery Point for the applicable Transaction, and the reference date for any Day will be the calendar date upon which the 24 hour period commences.
3. In the definition of Event of Default, at the beginning of subsection (ii) add the words: "with respect to a party or its Guarantor".
4. Remove the definition of "EFP".
5. Add the definition of Guarantor "Guarantor" shall mean any entity providing Performance Assurance to a party.

6. Add the definition of Swing: "Swing" shall have the same meaning as Interruptible.
7. Add the definition of Tariff: "Tariff" is the operational policies and procedures of the Transporter(s) whether called tariff, terms and conditions or otherwise.
8. In the definition of "Transaction Confirmation", add the following language after the words "Exhibit A": "or Schedule A - Confirmation".

## SECTION 3 - PERFORMANCE OBLIGATION

9. In Section 3.1, add the following sentence to the end of the section Buyer and Seller agree that in the event of a breach of a Firm obligation to deliver or receive Gas, the non-breaching party may elect either the Spot Price Standard or the Cover Standard as its sole and exclusive remedy for such breach.
10. In Section 3.2, delete from line 5 the following wording "or alternative fuels".
11. In Section 3.2, add the following sentence to the end of the section: "For clarity, adjustments for "commercially reasonable differences in transportation costs" shall mean reasonable additional transportation costs actually incurred that are not imbedded in the price paid by Buyer or received by Seller and which costs are resulting from alternate transportation arrangements made by the non-breaching party to purchase or sell Gas at an alternate delivery point.

## SECTION 5 - QUALITY AND MEASUREMENT

12. Add the following new section: 5.2 To the extent that Seller delivers Gas which does not comply with Section 5.1, Buyer may refuse deliveries and treat it as a Event of Default. Buyer may choose to accept delivery of such non-conforming Gas without prejudice to the indemnity described below or its rights under Section 3 (Performance Obligation). Seller will be liable for and, in addition, indemnify and hold harmless Buyer for any Claims associated with the receipt by the Buyer of such non-conforming Gas, whether or not received with knowledge that it was non-conforming.

## SECTION 12 - MISCELLANEOUS

22. The parties agree to add the following new sections to the end of Section 13:
  - 13.11 Eligible Financial Contract Each party represents and warrants to the other party that the Contract is (i) an "eligible financial contract" for the purpose of Canadian bankruptcy and insolvency laws and (ii) a "forward contract" for the purposes of U.S. bankruptcy and insolvency laws.
  - 13.12 Industry Usage Words and phrases which are not defined and which have an accepted meaning in the custom and usage of the petroleum and natural gas industry in Canada, will have that meaning herein and for matters relating to gas pipelines, particular reference will be made to the applicable Tariff. For matters relating to measurements, particular reference will be made to standard reference conditions.
  - 13.13 Time of Essence Time is of the essence for the performance of all obligations under this Base Contract and all Transactions.

13.14 Confidentiality Neither party shall disclose directly or indirectly without the prior written consent of the other party the terms of any transaction to a third party (other than the employees, lenders, royalty owners, counsel, accountants and other agents of the party, or prospective purchasers of all or substantially all of a party's assets or of any rights under this Contract, provided such persons shall have agreed to keep such terms confidential) except (i) in order to comply with any applicable law, order, regulation, or exchange rule, (ii) to the extent necessary for the enforcement of this Contract, (iii) to the extent necessary to implement any transaction, or (iv) to the extent such information is delivered to such third party for the sole purpose of calculating a published index. Each party shall notify the other party of any proceeding of which it is aware which may result in disclosure of the terms of any transaction (other than as permitted hereunder) and use reasonable efforts to prevent or limit the disclosure. The existence of this Contract is not subject to this confidentiality obligation. Subject to Section 14, the parties shall be entitled to all remedies available at law or in equity to enforce, or seek relief in connection with this confidentiality obligation. The terms of any transaction hereunder shall be kept confidential by the parties hereto for one year from the expiration of the transaction.

13.15 Existing Transactions On and after the effective date of this Base Contract, (i) any and all Gas purchases and/or sales transactions (each, an "Existing Transaction") entered into by and between the parties prior to such effective date shall become subject to, and form part of, this Base Contract; (ii) each such Existing Transaction shall be a Transaction for any and all purposes under this Base Contract; and (iii) this Base Contract shall supercede and replace any other general terms and conditions and/or master agreement, howsoever characterized, that applied or may have applied to an Existing Transaction prior to such effective date.

13.16 Ending Base Contract When this Base Contract is ended pursuant to Section 10 of these General Terms and Conditions, the parties may no longer enter into further Transactions, but otherwise the parties' respective rights and obligations under this Base Contract and all Transactions will continue in effect.

## Party K

### SECTION 1 - PURPOSE AND PROCEDURES

(a) Section 1.2a is amended by deleting the words "a Transaction" where they occur in the fourth line thereof between the words "shall confirm" and "by sending" and replacing them with the following words:

"all Transactions having a term of nine (9) Days or longer"

(b) Section 1 is amended to add the following new Section 1.6:

"1.6 The parties acknowledge that they have entered into this Contract as a master agreement and will be entering into all Transactions in reliance on the fact that all Transactions taken together constitute a single integrated agreement between the parties and not a series of separate agreements between the parties. The parties further acknowledge and agree that:

(i) each party shall be entitled to set off amounts owing by it under the Contract (whether or not yet due) against amounts owed to it under the Contract and any other agreement between the parties (whether or not yet due);

(ii) the credit which each party is willing to extend to the other under the Contract, and the credit risks which each party is willing to assume hereunder, is based on the entitlement to set-off rights set forth herein; and

(iii) the consideration and other terms and conditions which the parties have agreed to for the sale and purchase of Gas is based on the entitlement to set-off rights set forth herein.

## SECTION 2 - DEFINITIONS

(a) The definition of "Confirm Deadline" is amended by deleting the phrase "second Business Day" and replacing it with "fifth Business Day".

(b) The definition of "Cover Standard" is amended by deleting the phrase "or alternate fuels" from the third line.

(c) The definition of "Event of Default" is amended by adding:

(1) the following words to the beginning of subsection (ii) thereof: "in respect of a party or its guarantor," and

(2) the following new subsection:

"(vi) any representation made by a party to this Contract proves to have been incorrect or misleading in any material respect when made or deemed to be repeated."

(d) The definition of "Market Value" is amended by deleting the word "either" in the fourth line thereof, by deleting the word "or" in the fifth line thereof and replacing it with a semi-colon, and by adding the following to the end of the definition:

"; or (iii) in the case of Transactions for which the price is established by the NYMEX index, any applicable settlement prices of NYMEX Gas futures contracts, or any combination of the foregoing deemed by the Non-Defaulting Party to be reasonably appropriate. A party will not be required to enter into a replacement transaction in order to determine Market Value."

(e) The following definitions are added in alphabetical order to Section 2 Definitions:

"Affiliate" means, with respect to any Person, any other Person which is affiliated with such Person, and for the purposes of this Contract:

(i) two Persons will be considered to be affiliated with one another if one of them controls the other, or if both of them are controlled by a common third Person, and

(ii) one Person will be considered to control another Person if it has the power to direct or cause the direction of the management and policies of the other Person, whether directly or indirectly, through one or more intermediaries or otherwise, and whether by virtue of the ownership of shares or other equity interests, the holding of voting rights or contractual rights or otherwise.

"Person" means an individual, corporation, trust, limited or general partnership, joint venture or other entity.

---

## SECTION 3 - PERFORMANCE OBLIGATION

- (a) Section 3.1 is amended by inserting the following text at the end of Section 3.1:

"Where a Transaction Confirmation states that the applicable Transaction is "subject to diversion" (or words having a similar meaning), Buyer acknowledges and agrees that (i) Seller's obligation to deliver to Buyer the stipulated quantity of Gas at the Delivery Point is conditional upon Transporter delivering all such Gas to the Delivery Point on behalf of Seller; (ii) it shall receive and purchase from Seller at the Delivery Point that portion (if any) of such Gas transported to the Delivery Point by Transporter on behalf of Seller; and (iii) Seller shall not be liable to Buyer for any costs, expenses or other damages that Buyer may suffer or incur as a result of Transporter diverting all or a portion of such Gas from the Delivery Point to a different delivery point or otherwise not transporting all such Gas to the Delivery Point on behalf of Seller."

## SECTION 6 - TAXES

- (a) Section 6.3.c is amended by:

- (i) inserting the word "Taxes," in the first line between the words "GST," and "penalties";
- (ii) inserting the word "covenants," in the second line between the words "declarations," and "representations"; and
- (iii) inserting the word "6.1," in the third line between the words "Section" and "6.3.a".

## SECTION 13 - MISCELLANEOUS

- (a) Section 13.1 is amended by deleting "provided, either party may transfer its interest to any parent or affiliate by assignment, merger or otherwise without the prior approval of the other party."

- (b) Section 13.5 is deleted in its entirety and the following is substituted therefor:

"13.5 This Contract shall be governed by, construed and enforced in accordance with the applicable laws of the jurisdiction specified in the Base Contract, excluding however, any conflict of laws rule which would apply the law of another jurisdiction, and the laws of Canada applicable therein and the parties agree to surrender and attorn to the exclusive jurisdiction of the courts of that Province for the resolution of any disputes arising under or in connection with the Contract."

- (c) Section 13.8 is deleted in its entirety and the following is substituted therefor:

"13.8 Each party represents to the other party (which representations will be deemed to be repeated by each party on each date on which a Transaction is entered into) that:

- (i) Status. It is duly organized and validly existing under the laws of the jurisdiction of its organization or incorporation and, if relevant under such laws, in good standing;
- (ii) Powers. It has the power to execute this Contract and any other documentation relating to this Contract to which it is a party, to deliver this Contract and any other documentation relating to this

---

Contract that it is required by this Contract to deliver and to perform its obligations under this Contract and has taken all necessary action to authorize such execution, delivery and performance;

(iii) No Violation or Conflict. Such execution, delivery and performance do not violate or conflict with any law applicable to it, any provision of its constitutional documents, any order or judgment of any court or other agency of government applicable to it;

(iv) Consents. All governmental and other consents that are required to have been obtained by it with respect to this Contract have been obtained and are in full force and effect and all conditions of any such consents have been complied with;

(v) Obligations Binding. Its obligations under this Contract constitute its legal, valid and binding obligations, enforceable in accordance with their respective terms, subject to applicable bankruptcy, reorganisation, insolvency, moratorium or similar laws affecting creditors' rights generally and subject, as to enforceability, to equitable principles of general application (regardless of whether enforcement is sought in a proceeding in equity or at law);

(vi) Absence of Certain Events. No Event of Default or Potential Event of Default with respect to it has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or performing its obligations under this Contract;

(vii) Non-Reliance. It is acting for its own account, and it has made its own independent decisions to enter into that Transaction and as to whether that Transaction is appropriate or proper for it based upon its own judgment and upon advice from such advisors as it has deemed necessary. It is not relying on any communication (written or oral) of the other party as investment advice or as a recommendation to enter into that Transaction; it being understood that information and explanations related to the terms and conditions of a Transaction shall not be considered investment advice or a recommendation to enter into that Transaction. It has not received from the other party any assurance or guarantee as to the expected results of that Transaction;

(viii) Evaluation and Understanding. It is capable of evaluating and understanding (on its own behalf or through independent professional advice), and understands and accepts, the terms, conditions and risks of that Transaction. It is also capable of assuming, and assumes, the financial and other risks of that Transaction;

(ix) Status of Parties. The other party is not acting as a fiduciary or an advisor for it in respect of that Transaction; and

(x) Qualified Party. It is and will remain a Qualified Party as defined under the Order (Section 9.1), dated August 4, 2000 issued by the Alberta Securities Commission and Blanket Order 91-501, dated November 24, 1999 issued by the British Columbia Securities Commission."

(d) Section 13 is amended to add the following new Sections:

"13.11 Upon request and as soon as publicly available, each party agrees to deliver to the other (i) the annual audited consolidated financial statements of such party or such party's guarantor, as applicable; and (ii) the quarterly unaudited consolidated financial statements of such party or such party's guarantor, as applicable, in each case prepared in accordance with generally accepted accounting principles. Failure to deliver such financial statements shall constitute a failure to perform pursuant to clause (v) of the

definition of Event of Default, provided that, for all purposes hereof, posting of financial statements by a party on its website or on the SEDAR website shall constitute effective delivery thereof to the other party as at the date of such posting and provided further that such posting is maintained until the subsequent annual or quarterly financial statements, as applicable, are similarly posted. The financial statements of VVV's guarantor can be found at [www.vvv.com](http://www.vvv.com)."

"13.12. The parties acknowledge and agree that the Contract, any Transactions, and any guarantees provided in respect of the Contract are: (i) "eligible financial contracts" within the meaning of the Companies Creditors Arrangement Act (Canada), as amended, the Bankruptcy and Insolvency Act (Canada), as amended, and the Winding Up and Restructuring Act (Canada), as amended; and (ii) "forward contracts" for the purpose of U.S. bankruptcy and insolvency laws."

"13.13 If any index or other pricing data source that has been agreed upon under a Transaction to determine the price for that Transaction is not available, the parties agree to promptly negotiate on a good faith basis a mutually satisfactory alternate price or pricing methodology applicable for the subject Delivery Point. If the parties cannot agree on an alternative price or methodology by the end of the 3rd Business Day after the day the price or pricing methodology became unavailable, then each party shall by the end the 10th Business Day after the price or pricing methodology became unavailable prepare a list of up to five alternative published reference postings, pricing methodologies or substitute index references to price the Gas at the subject Delivery Point, and submit the list to the other. The first common item that appears on each of the lists shall determine the alternative price. If the first 2 items on the lists are common, then the alternate price shall be calculated and determined as the arithmetic average of the 2 common items. If either party fails to deliver a list, that party's list shall not be considered, and the first item appearing on the other party's list will govern and prevail to determine the alternate price or pricing methodology."

## Party M

### SECTION 1. PURPOSES AND PROCEDURES

1. In line 5 of Section 1.2 (a) replace the words, "next Business Day" with the words, "second (2nd) Business Day after the Transaction".

### SECTION 2. DEFINITIONS

2. The following definition is inserted immediately after the definition of "Accelerated Payment Invoice":

"Affiliate" of a party shall mean (i) any person or entity that directly or indirectly controls that party; (ii) any entity that is directly or indirectly controlled by that party; or (iii) any entity that is directly or indirectly controlled by the same person or entity."

3. In the definition of "Event of Default" in item (iv) the words "which Gas has been contracted on a Firm Basis" are inserted immediately after "a party's failure to deliver or receive Gas". All Transactions shall be deemed to be Firm unless expressly identified as EFP or Interruptible

4. In Section 2.1, the definition of the term "Spot Price" is hereby replaced with the following definition:

"Spot Price" as referred to herein shall mean, if applicable, the price listed for the relevant Day in the publication specified for pricing purposes under the Transaction. If a publication is not being utilized for pricing purposes under the Transaction, "Spot Price" shall mean the price listed for the relevant Day in the Spot Price Publication applicable to the Delivery Point as shown in the table below. If the table below does not list a Spot Price Publication for the Delivery Point(s), the "Spot Price" shall be the price in the publication commonly accepted by the natural gas industry for such Delivery Point(s) for the relevant Day. If there is no single price published for such location for such Day, but there is published a range of prices, then the Spot Price shall be the average of such high and low prices. If no price or range of prices is published for such Day, then the Spot Price shall be the average of the following: (i) the price (determined as stated above) for the first Day for which a price or range of prices is published that next precedes the relevant Day; and (ii) the price (determined as stated above) for the first Day for which a price or range of prices is published that next follows the relevant Day. Where more than one Spot Price Publication is listed for a Delivery Point in the table below, the Spot Price Publication shall be selected by the Performing Party from the choices available."

Delivery Points	Spot Price Publication
All Alberta Delivery Points	Canadian Gas Price Reporter
Alliance (into Interstate)	Gas Daily
Chicago	Inside FERC, Natural Gas Intelligence, Gas Daily
Chicago CityGate	Natural Gas Intelligence, Gas Daily
Columbia Appalochia	Gas Daily
Dawn	Gas Daily
Demarcation	Inside FERC (monthly only) Gas Daily or BTU Daily (daily only)
Dominion Appalachians	Gas Daily
El Paso/Permian	Gas Daily
EPNG San Juan	Gas Daily
Henry Hub	Gas Daily
Iroquois Receipts	Gas Daily
Kern River	Natural Gas Intelligence
Kern River (Opal)	Gas Daily
Malin	Gas Daily, Natural Gas Intelligence
Mich Con	Gas Daily, Natural Gas Intelligence
Niagara	Gas Daily
Northwest Canadian Border (Sumas)	Gas Daily (NW Sumas Index), Inside FERC
Southern California Gas Company	Natural Gas Intelligence, Gas Daily
Stanfield	Gas Daily, Natural Gas Intelligence
Transco Z-6 (Non NY)	Inside FERC, Natural Gas, Intelligence, Gas Daily
Transco Z-6 (NY)	Gas Daily, Inside FERC, Natural Gas Intelligence
Ventura	Inside FERC (monthly), Gas Daily or BTU Daily (daily)
Westcoast Station 2	Gas Daily

## SECTION 13. MISCELLANEOUS

12. The following is inserted immediately before the period at the end of Section 13.5:

"and the parties attorn to the jurisdiction of the courts of such jurisdiction and agree not to commence any action to enforce this Contract in any other jurisdiction.

13. Insert as the last sentence of Section 13.5 the following: "Each party hereby irrevocably waives any and all rights it has or may acquire in the future to request a trial by jury in any action or proceedings hereunder."

14. The second sentence of Section 13.8 is deleted in its entirety and replaced with the words:

"Each party represents and warrants that it has the full right and authority to execute this Contract and that this Contract constitutes a valid and legal binding obligation on it."

15. 13.10 The following shall replace the existing Section 13.10:

"If the Parties are unable to resolve any dispute regarding the application or interpretation of any provision related to the Agreement and if both Parties agree to resolve such dispute through the arbitration, then the Parties may pursue arbitration in a manner as mutually agreed, otherwise each Party retains its respective rights to pursue all legal and equitable remedies regarding any such disputes."

The following will be inserted as Section 13.11

"13.11 Neither party shall disclose directly or indirectly without the prior written consent of the other party, which consent shall not be unreasonably withheld, the terms of any Transaction to a third party (other than the employees, lenders, royalty owners, Affiliates, counsel, accountants and other agents of the disclosing party, or prospective purchasers of all or substantially all of a party's assets or of any rights under this Agreement, provided such persons shall have agreed to keep such terms confidential) except (i) in order to comply with any applicable law, order, regulation, or exchange rule, (ii) to the extent necessary for the enforcement of this Agreement, (iii) to the extent necessary to implement any Transaction, or (iv) to the extent such information is delivered to such third party on a no-name basis for the sole purpose of calculating a published index. Each party shall notify the other party of any proceeding of which it is aware which may result in disclosure of the terms of any Transaction (other than as permitted hereunder) and use reasonable efforts to prevent or limit the disclosure."

## **Party N**

### Section 2 - Definitions

The definition of "Event of Default" under Section 2.1 is amended as follows:

(a) adding the following words "or Section 10.7, as applicable," after the words "Section 10.1" in subsection (iii) of the definition.

(b) adding a new subsection (vi) as follows: "(vi) the failure of any Performance Assurance provided in accordance with Section 10.1 or Section 10.7, as applicable, to be in full force and effect for purposes of the Contract (other than in accordance with its terms) prior to the satisfaction of all obligations of such party under each Transaction to which such Performance Assurance relates."