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October 31, 2024

British Columbia Utilities Commission  
Suite 410, 900 Howe Street  
Vancouver, BC  
V6Z 2N3

Attention: Patrick Wruck, Commission Secretary

Dear Patrick Wruck:

**Re: FortisBC Energy Inc. (FEI)**

**Application for Approval of Amendments to Rate Schedule (RS) 30 – Off-System Sales and Purchases Rate Schedule and Agreement (Canada and U.S.A.) (Application)**

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FEI hereby requests approval from the British Columbia Utilities Commission (BCUC), pursuant to sections 59 to 61 of the *Utilities Commission Act* (UCA), for amendments to RS 30 in order to adopt the General Terms and Conditions (GT&Cs) of the GasEDI Base Contract for Short-Term Sale and Purchase of Natural Gas dated August 31, 2005 (2005 GasEDI Base Contract) and related amendments to the Standard Provisions, effective January 1, 2025 (Application).

**Background:**

RS 30 was originally approved by Order G-79-01, dated July 12, 2021, with amendments approved by Orders G-89-03, G-197-11, G-19-16, and most recently by Order G-58-20 dated March 19, 2020. The current form of RS 30 incorporates the GT&Cs of the GasEDI Base Contract for Short-Term Sale and Purchase of Natural Gas dated October 26, 2000 (2000 GasEDI Base Contract) and the related Standard Provisions.

FEI proposes to adopt the 2005 GasEDI Base Contract, a copy of which is provided in Appendix A, and amendments to the related Standard Provisions to replace the current 2000 GasEDI Base Contract and related Standard Provisions. The 2005 Gas EDI Base Contract is a more current version which primarily reflects updates to language for contractual clarification, but otherwise remains largely the same. At this time, the 2005 GasEDI Base Contract reflects the industry standard terms for GasEDI transactions in the marketplace and the form of contract expected by counterparties when entering into GasEDI transactions.

### **Comparison of Terms:**

FEI has prepared a detailed comparison of the substantive differences between the sections of the 2005 GasEDI Base Contract terms and related Standard Provisions with those of the 2000 GasEDI Base Contract terms and related Standard Provisions in a comparison table which is provided in Appendix B to this Application. The comparison table in Appendix B does not identify minor changes to language or updates to terms for clarification purposes which do not alter the function of the terms. FEI has also included a blacklined comparison between the terms of the 2000 GasEDI Base Contract and the 2005 GasEDI Base Contract (including cover sheet) in Appendix C for illustrative purposes to help facilitate the BCUC's review of the Application.

Below, FEI provides a summary of the comparison between the two contracts and highlights the main substantive differences.

### ***Section 1 – Purpose and Procedures and Section 2 – Definitions:***

Sections 1 and 2 of the 2005 GasEDI Base Contract do not contain substantive changes; however, new terms have been added in the definitions to provide clarity to the language.

### ***Section 3 – Performance Obligation:***

Section 3.3 in the 2005 GasEDI Base Contract contains new provisions regarding Termination Rights. If Termination Rights “apply”, then the Performing Party has the right to terminate, accelerate and liquidate an Affected Transaction on notice to the Non-Performing Party by designating an Early Termination Date between 1 and 5 Business Days following the most recent Non-Performance causing the Affected Transaction. This section also clarifies “Failure Days” in the case where the transaction was not upheld leading to termination and termination payment obligations.

### ***Section 6 – Taxes:***

Section 6 in the 2000 and 2005 Agreements contain largely similar provisions, but the 2005 GasEDI Base Contract includes some additional language for goods and services tax (GST) requirements related to exporting gas from Canada. References to harmonized sales tax, provincial sales tax, carbon tax and input tax credits have also been added in the 2005 Agreement.

### ***Section 10 – Financial Responsibility, Defaults and Remedies:***

Section 10 of the 2005 GasEDI Base Contract has been expanded from the 2000 GasEDI Base Contract regarding the ability to demand Performance Assurances and the timing for which the assurance is received on the basis of default or non-performance. The subsections set out the rights of the Parties in the event of insecurity regarding the payment, performance or enforceability of any obligation, non-payment, and an Event of Default, under the Contract. As well, the timing of when performance assurance must be provided, and the event of a non-payment and related charges resulting from non-performance are also identified. Section 10.3 defines and lists the actual events of default or non-performance and the concept of “Potential Event of Default” has been removed. However, the language in the 2005 Agreement continues to support the foreseeability of an Event of Default, thus does not substantively alter the function of this provision.

Further, Section 10.4 of the 2005 GasEDI Base Contract includes new language in the event of an early termination of a contract and any amounts owing from the terminated transaction. The definition of “Market Value” has been split into two separate definitions of “Market Value” and “Market Price” in the 2005 GasEDI Base Contract and additional language has been added to the Market Price definition.

### ***Section 11 – Force Majeure***

In the 2005 GasEDI Base Contract, additional language and sub-sections have been added. Both contracts include a generic form of definition of “Force Majeure” (noted as Option A in Section 11.2 to the 2005 GasEDI Base Contract). However, the 2005 GasEDI Base Contract also includes additional options which can be selected to specifically define “Force Majeure” in the context of a market trading hub. The distinction has been added to the 2005 GasEDI Base Contract in order to more directly address specific operational restrictions that may be encountered at and be specific to these trading hubs.

Section 11.3 applies if the Party has selected Option A, or if they selected Option B and the Delivery Point is other than NIT or a Liquid Delivery Point. This section lists the circumstances that are excluded for when a party may claim Force Majeure. The Party cannot claim Force Majeure for the following reasons: lack of finances; the seller’s ability to sell Gas at a more advantageous price than the Contract Price; the Buyer’s ability to purchase Gas at a more advantageous price than the Contract Price; a regulatory agency disallowing pass-through costs; and, scheduled maintenance by a Transporter or storage operator if notice of such was provided prior to the entering into of the subject Transaction.

Section 11.4 states the Claiming Party must use commercially reasonable efforts to minimize the impacts of Force Majeure and resolve the event once it has occurred, provided specific events or circumstances listed in the provision are not at play. Section 11.5 specifies the notice and onset of the Force Majeure and, pursuant to Section 4.3 pertaining to Imbalance Charges, the Claiming Party is responsible for any Imbalance Charges caused due to the interruption or curtailment of Firm deliveries or receipts from the Force Majeure.

Section 11.6 addresses circumstances when purchase or sale obligations by the Claiming Party are partially impacted by a Force Majeure at the Delivery point. The Claiming Party is obligated to first curtail their interruptible obligations in order to fulfill the Firm obligations under the contract. If the Claiming Party is unable to meet their Firm obligations, then the affected party may, to the extent possible, reduce its firm obligations accordingly.

### ***Section 13 – Limitations:***

Section 13 has been moved and split into subsections, but remains largely the same as in the 2000 GasEDI Base Contract, other than the following additions:

- Nothing limits the right of a party to recover or enforce a right to damages permitted by the Contract; and
- Each party reserves all rights, remedies, set-offs, counterclaims and defenses available at law or in equity with respect to the subject matter of the Contract.

### ***Section 14 – Miscellaneous:***

Several sub-sections in Section 14 of the 2005 GasEDI Base Contract expand upon the language in the 2000 GasEDI Base Contract. Section 14.1 states that a Party may transfer,

sell, pledge, encumber, or assign the Contract, accounts, revenues or proceeds of the Contract in connection with a financing or other financial arrangement without prior approval of the other Party. Further, Section 14.3 states that a waiver of any breach of the Contract must be in writing.

With respect to Arbitration in Section 14.5, this provision was previously contained in Section 13.10 of the 2000 GasEDI Base Contract. The language around arbitration is now contained in Section 14.5 of the 2005 GasEDI Base Contract and states that unless the Parties otherwise agree, there is no obligation for disputes to be addressed via arbitration.

Section 14.10 deals with confidentiality both during the Contract and Contract termination. The 2005 GasEDI Base Contract includes a number of typical exceptions to the confidentiality obligations, and typical terms that permit the disclosure of information as required by law.

The 2005 GasEDI Base Contract contains a new provision in Section 14.11 which states that the signing parties intend that the GasEDI Contract is an “eligible financial contract” or EFC within the meaning of the Canadian bankruptcy and insolvency legislation. Further, that the EFC is a class of financial agreement that is excluded from the operation of certain aspects of such legislation, including:

- Counterparties are not subject to the general prohibition against netting and set-off obligations in bankruptcy and insolvency proceedings;
- EFCs may be terminated or accelerated as a result of a party filing a bankruptcy proposal or commencing proceedings under the Companies’ Creditors Arrangement Act (CCAA); and
- Counterparties may deal with or realize on financial collateral held in respect of an EFC, notwithstanding a general stay of proceedings under the Bankruptcy and Insolvency Act or CCAA.

Sections 14.13 and 14.14 in the 2005 GasEDI Base Contract are new provisions. Section 14.13 states that the Parties irrevocably waive their rights to a jury trial with respect to any litigation arising under the Contract. Section 14.14 specifies that the UN Convention on Contracts for International Sale of Goods (CISG) is specifically excluded from the application of the Contract. CISG automatically applies to international contracts for the sale of commercial goods between Canadian and foreign businesses, in place of the selected governing law, unless excluded.

### ***Standard Provisions:***

Appendix B also provides information about the amendments required to the Standard Provisions based on the 2005 GasEDI Base Contract. In Appendix D, FEI has provided the proposed amendments to the Standard Provisions Blacklined against the 2000 GasEDI Base Contract Standard Provisions.

### **Approval Sought:**

FEI requests approval from the BCUC, pursuant to sections 59 to 61 of the UCA for amendments to RS 30 in order to adopt the GT&Cs of the 2005 GasEDI Base Contract and related amendments to the Standard Provisions, effective January 1, 2025. A draft form of order sought is included in Appendix E. If this Application is approved by the BCUC, any new GasEDI contracts entered into by FEI with counterparties after the effective date will use the

2005 GasEDI Base Contract and related Standard Provisions as the starting point for negotiation with the counterparty.

If further information is required, please contact Ilva Bevacqua, Manager, Regulatory Compliance and Administration at 604-592-7664.

Sincerely,

**FORTISBC ENERGY INC.**

***Original signed:***

Sarah Walsh

Attachments

**Appendix A**

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**2005 GASEDI BASE CONTRACT**

**GasEDI BASE CONTRACT FOR SALE AND PURCHASE OF NATURAL GAS**

**COVER SHEET**

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**Page 1 of 2**

August 31, 2005

The Base Contract is entered into as of the following date: \_\_\_\_\_

The parties to the Base Contract are the following:

**PARTY A**

**PARTY B**

**PARTY**

**Address 1**

**Address 2**

**City**

**State / Province**

**Zip / Postal Code**

**Base Contract #**

**Duns #**

**Canadian GST #**

**US Federal Tax ID #**

**BANKING INFORMATION**

**NOTICES**

**Contact**

**Phone**

**Fax**

**Email**

**24 HOUR OPERATIONS**

**Contact**

**Phone**

**Fax**

**Email**

**INVOICES & PAYMENTS**

**Contact**

**Phone**

**Fax**

**Email**

**GasEDI BASE CONTRACT FOR SALE AND PURCHASE OF NATURAL GAS**

**COVER SHEET**

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**Page 2 of 2**  
August 31, 2005

The Base Contract incorporates by reference for all purposes the General Terms and Conditions of the GasEDI Base Contract for Sale and Purchase of Natural Gas as published by GasEDI on August 31, 2005. The parties agree to the following provisions offered in the General Terms and Conditions. In the event the parties fail to check a box, the specified default provision shall apply.

<b>Section 1.2.a: Confirming Party shall Confirm</b> <input type="checkbox"/> All Transactions (default) <input type="checkbox"/> All Transactions having a Delivery Period equal to or greater than _____ Days	<b>Section 6.1: Taxes</b> <input type="checkbox"/> Buyer Pays At and After Delivery Point (default) <input type="checkbox"/> Seller Pays Before and At Delivery Point
<b>Section 2: Confirm Deadline</b> <input type="checkbox"/> 2 Business Days after receipt (default) <input type="checkbox"/> _____ Business Days after receipt	<b>Section 7.2.a: Payment Date</b> <input type="checkbox"/> Closest Business Day to Payment Date (default) <input type="checkbox"/> Next Business Day following Payment Date
<b>Section 2: Confirming Party</b> <input type="checkbox"/> Seller (default) <input type="checkbox"/> Buyer	<b>Section 7.2: Method of Payment</b> <input type="checkbox"/> WT - Wire Transfer (default) <input type="checkbox"/> ACH - Automated Clearinghouse - Credit Only <input type="checkbox"/> Cheque / Check <input type="checkbox"/> EFT - Electronic Funds Transfer <input type="checkbox"/> FEDI - Financial Electronic Data Interchange
<b>Section 3.2: Performance Obligation</b> <input type="checkbox"/> Cover Standard (default) <input type="checkbox"/> Spot Price Standard  Note: The following Spot Price Publication applies to both of the immediately preceding: <input type="checkbox"/> Canadian Gas Price Reporter (default) __ __ <input type="checkbox"/> Gas Daily Mid Point _____ <input type="checkbox"/> _____	<b>Section 11.2: Force Majeure:</b> <input type="checkbox"/> Option A (default) <input type="checkbox"/> Option B <b>[To be selected based on delivery point]</b> Option B, Section 11.2.b Liquid Delivery Points: _____ _____
<b>Section 3.3: Termination Right</b> <input type="checkbox"/> Does Not Apply (default) <input type="checkbox"/> Applies	<b>Section 14.5: Choice of Jurisdiction:</b> <input type="checkbox"/> Alberta (default) <input type="checkbox"/> _____  <input type="checkbox"/> Special Provisions _____ pages attached <input type="checkbox"/> Credit Annex _____ pages attached

**IN WITNESS WHEREOF**, the parties have executed the Base Contract in duplicate.

**PARTY A**

**PARTY B**

**PARTY**

**Signature**

**Name**

**Title**

**Date**

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TABLE OF CONTENTS

SECTION 1 - PURPOSE AND PROCEDURES	1
SECTION 2 - DEFINITIONS	2
SECTION 3 - PERFORMANCE OBLIGATION	7
SECTION 4 - TRANSPORTATION, NOMINATIONS AND IMBALANCES	8
SECTION 5 - QUALITY AND MEASUREMENT	8
SECTION 6 - TAXES	9
SECTION 7 - INVOICING, PAYMENT AND AUDIT	10
SECTION 8 - TITLE, WARRANTY AND INDEMNITY	11
SECTION 9 - NOTICES	11
SECTION 10 - FINANCIAL RESPONSIBILITY, DEFAULTS AND REMEDIES	12
SECTION 11 - FORCE MAJEURE	14
SECTION 12 - TERM	15
SECTION 13 - LIMITATIONS	15
SECTION 14 - MISCELLANEOUS	16

SECTION 1 - PURPOSE AND PROCEDURES

1.1 These General Terms and Conditions are intended to facilitate Transactions on a Firm or Interruptible basis.

1.2.a Any Transaction may be effected orally or electronically with the offer and acceptance constituting the valid, binding and enforceable agreement of the parties. The parties are legally bound from the time the Transaction is effected. Any such Transaction is considered a "writing" and to have been "signed". Notwithstanding the previous sentence, the Confirming Party shall confirm those Transactions requiring written confirmation pursuant to the selection made on the Cover Sheet by sending the other party a Transaction Confirmation by facsimile or mutually agreeable electronic means by the close of the 3<sup>rd</sup> Business Day following the Day on which the Transaction is effected. Confirming Party adopts its confirming letterhead or the like as its signature on any Transaction Confirmation and as the identification and authentication of Confirming Party.

1.2.b If a Transaction Confirmation sent by Confirming Party is materially different from the other party's understanding of the agreement referred to in Section 1.2.a, that other party shall give Confirming Party Notice clearly identifying such difference on Confirming Party's Transaction Confirmation and return the annotated Transaction Confirmation to the Confirming Party by the Confirm Deadline. The failure of the other party to so notify Confirming Party by the Confirm Deadline is further evidence of the agreement between the parties and constitutes the other party's acknowledgement that the terms of the Transaction described in Confirming Party's Transaction Confirmation are accurate. If the Transaction Confirmation contains any provisions other than those relating to the commercial terms of the Transaction (i.e. Buyer, Seller, Contract Price, Contract Quantity, performance obligation, Delivery Point, Delivery Period and transportation conditions), which modify or supplement the Base Contract, such provisions shall not be deemed to be accepted pursuant to this Section 1.2.b unless expressly agreed to in writing by both parties; provided that the foregoing shall not invalidate any Transaction agreed to by the parties.

1.2.c If a Transaction Confirmation is required pursuant to Section 1.2.a and the other party does not receive a Transaction Confirmation from Confirming Party by the deadline set out in Section 1.2.a, then the other party may notify Confirming Party by sending its own Transaction Confirmation by the close of the Business Day following the deadline set out in Section 1.2.a. If a Transaction Confirmation sent by the other party is materially different from Confirming Party's understanding of the agreement referred to in Section 1.2.a, Confirming Party shall give the other party Notice clearly identifying such difference on the other party's Transaction Confirmation and return the annotated Transaction Confirmation to the other party by the Confirm Deadline. The failure of Confirming Party to so notify the other party by the Confirm Deadline is further evidence of the agreement between the parties and constitutes the Confirming Party's acknowledgement that the terms of the Transaction described in the other party's Transaction Confirmation are accurate. If the other party does not receive a Transaction Confirmation from Confirming Party by the deadline set out in Section 1.2.a and the other party does not send its own Transaction Confirmation as provided for in this Section 1.2.c, the absence of a Transaction Confirmation in respect of a particular Transaction does not negate the existence of such Transaction.

1.2.d The entire agreement between the parties shall be those provisions contained in an effective Transaction Confirmation, a Transaction entered into by the parties either orally or electronically and the Base Contract. In the event of a conflict among the foregoing, the terms shall govern in the following priority: (i) an effective Transaction Confirmation; (ii) a Transaction entered into by the parties either orally or electronically; (iii) the Credit Annex, if any; (iv) the Special Provisions, if any; and (v) the balance of the Base Contract. All Transactions are entered into in reliance on the fact that the Base Contract, each Transaction Confirmation and each Transaction constitute a single integrated agreement between the parties and the parties would not otherwise have entered into the Base Contract or any Transaction.

1.3 Communications occurring via a telephone conversation may be recorded by either party and each party consents to same without further notice to, or consent from, the other party. Each party shall, to the extent required by applicable law, give notice to, and obtain consent from, each of its employees, contractors and other representatives who may have their communications recorded. Any recordings of communications relevant to a Transaction may be used as evidence in any legal, arbitration or other dispute resolution procedure, and the parties hereby expressly waive all rights to, and expressly agree not to, contest or otherwise argue against such use of any recordings relevant to the disputed Transaction.

1.4 Each party shall be entitled, upon reasonable request, to access the other party's recording(s), if any, associated with a disputed Transaction.

1.5 The parties hereby expressly waive all rights to, and expressly agree not to, contest any Transaction, or assert or otherwise raise any defences or arguments related to any Transaction to the effect that such is not binding, valid or enforceable in accordance with its terms because either the employee(s) or representative(s) who entered into the Transaction on behalf of a party, and who appeared to have the requisite authority to do so, did not, in fact, have such authority or because the provisions of certain applicable laws require the Transaction to be in writing and/or executed by one or both parties.

## **SECTION 2 - DEFINITIONS**

2.1 The following terms, when used in this Contract, have the following meanings:

"10<sup>3</sup>m<sup>3</sup>" means the quantity of Gas occupying a volume of 1000 cubic metres at a temperature of 15 degrees Celsius and at a pressure of 101.325 kilopascals absolute.

"Accelerated Payment Invoice" has the meaning set forth in Section 7.7.

"Affected Transaction" means a Firm Transaction with a Delivery Period of at least 30 Days in respect of which there has occurred that number of Failure Days that is equal to the greater of (i) 4 Days; or (ii) 5% of the number of Days in the Delivery Period.

"Affiliate" of any person, including, without limitation, a partnership, means a person, including, without limitation, a partnership, which directly or indirectly, controls, is controlled by, or is under common control with such person. For the purpose of this definition "control" means control in fact, whether by ownership of sufficient voting securities to elect a majority of the directors of a corporation, by owning sufficient partnership interest in an ordinary partnership, by being the general partner of a limited partnership, by contract or otherwise and "person" includes an individual, a partnership (including, without limitation, a limited partnership and a limited liability partnership), a corporation (including, without limitation, a limited liability corporation), an unlimited company, a joint stock company, a trust, a joint venture, an unincorporated organization, a union, a government or any department or agency of a government, and the heirs, executors, administrators or other legal representatives of an individual.

"Base Contract" means the Cover Sheet, these General Terms and Conditions, any Special Provisions, and any Credit Annex.

"British Thermal Unit" or "Btu" means the International Btu, which is also called the Btu(IT).

"Business Day" means any day except Saturday, Sunday, or a statutory or banking holiday observed in the jurisdiction of the receiving party's address for Notices as provided pursuant to Section 9.1. A Business Day closes at 5:00 p.m. local time for the receiving party's address for Notices as provided pursuant to Section 9.1.

"Buyer" refers to the party receiving Gas pursuant to a Transaction.

"Claiming Party" means the party claiming a suspension of its obligations due to Force Majeure.

"Claims" has the meaning set forth in Section 8.3.

"Confirm Deadline" means 5:00 p.m. in the receiving party's time zone on the Business Day selected on the Cover Sheet; provided that, if a Transaction Confirmation is received after 5:00 p.m. in the receiving party's time zone, it shall be deemed received at the opening of the next Business Day.

"Confirming Party" means the party selected on the Cover Sheet to prepare and forward Transaction Confirmations to the other party.

"Contract" means the legally-binding relationship established by (i) the Base Contract, (ii) any and all effective Transaction Confirmations, and (iii) any and all Transactions entered into by the parties either orally or electronically.

"Contract Price" means: (i) if the Delivery Point is in the United States, the amount expressed in U.S. dollars per MMBtu or U.S. dollars per Dekatherm; or (ii) if the Delivery Point is in Canada, the amount expressed in Canadian dollars per GJ; unless specified otherwise in a Transaction.

"Contract Quantity" means the quantity of Gas to be delivered and received each Day pursuant to a Transaction.

"Contract Value" of a Transaction means the net present value (applying the Present Value Discount Rate) of the product of (i) the quantity of Gas remaining under a Transaction which the parties are obligated to transact, multiplied by (ii) the Contract Price.

"Costs" means all reasonable costs, legal fees and expenses incurred by the Non-Defaulting Party to replace a Transaction(s) or in connection with termination of a Transaction(s) pursuant to Section 10, including, without limitation, legal fees as between a solicitor and its client, brokerage fees, commissions and expenses incurred in maintaining, replacing or liquidating any terminated Transactions.

"Cover Sheet" means the completed Cover Sheet executed by the parties.

"Cover Standard" means, if there is an unexcused failure to take or deliver the Contract Quantity pursuant to a Transaction, then the Performing Party shall use commercially reasonable efforts to purchase Gas, or sell Gas, at a price reasonable for the delivery or production area, as applicable, consistent with: (i) the amount of notice provided by the Non-Performing Party; (ii) the immediacy of Buyer's Gas consumption needs or Seller's Gas sales requirements, as applicable; (iii) the quantities involved; and (iv) the anticipated length of failure by the Non-Performing Party.

"Credit Annex" means any credit support agreement as may be attached to the Cover Sheet.

"Day" means 9:00 a.m. to 9:00 a.m. central clock time.

"Defaulting Party" has the meaning set forth in Section 10.3.

"Dekatherm" means one million British Thermal Units.

"Delivery Period" means the period during which deliveries are to be made pursuant to a Transaction.

"Delivery Point(s)" means the point(s) of delivery and receipt of Gas pursuant to a Transaction.

"Early Termination Date" has the meaning set forth in Section 10.3.

"EFP" means the purchase, sale or exchange of natural Gas as the "physical" side of an exchange for physical transaction involving gas futures contracts. EFP shall incorporate the meaning and remedies of "Firm".

"ETA" means the Excise Tax Act (Canada).

"Event of Default" means (i) the failure to make payment when due under this Contract, which is not remedied within 2 Business Days after receiving Notice of such failure (except for a failure to pay an Accelerated Payment Invoice which shall immediately constitute an Event of Default); (ii) in respect of a party or its guarantor, if applicable, 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 petition filed or proceeding commenced against it, any bankruptcy or insolvency (however evidenced), or the inability to pay debts as they fall due; (iii) the failure to provide and maintain Performance Assurance in accordance with Section 10.1.a; (iv) any default under the Credit Annex (if applicable); or (v) the failure to perform any material obligation under this Contract (other than an obligation which is specifically covered in this definition as a separate Event of Default or is covered under Section 3.2), if not remedied within 5 Business Days after receiving Notice of such failure.

"Failure Day" means a Day on which the Non-Performing Party has failed to purchase and receive, or sell and deliver, as applicable, the greater of (i) 500 GJs or 500 MMBtus, as applicable; or (ii) 4% of the Contract Quantity to be purchased and received or sold and delivered on such Day, which failure is not excused because of the Non-Performance (non-delivery or non-receipt, as applicable) of the Performing Party, or by Force Majeure.

"Final Liquidation Amount" has the meaning set forth in Section 10.4.c.

"Firm" means that either party may interrupt its performance under a Transaction without liability (other than liability with respect to Imbalance Charges imposed pursuant to Section 4.3 or 11.5) only to the extent that such performance is excused by the other party's Non-Performance, by the exercise by a party of its suspension rights under Section 10, or by Force Majeure.

"Force Majeure" has the meaning set forth in Section 11.2.

"Gas" means any mixture of hydrocarbons and non-combustible gases in a gaseous state consisting primarily of methane.

"GJ" means 1 gigajoule; 1 gigajoule = 1,000,000,000 Joules. The standard conversion factor between Dekatherms and GJs is 1.055056 GJs per Dekatherm.

"GST" has the meaning set forth in Section 6.2.

"Imbalance Charges" means any fees, penalties, costs or charges (in cash or in kind) assessed by a Transporter for failure to satisfy the Transporter's balance and/or nomination requirements.

"Interest Rate" means the lower of: (i) if the amount payable is in Canadian currency, the per annum rate of interest identified from time to time as the prime lending rate charged to its most credit worthy customers for commercial loans by The Toronto Dominion Bank, Main Branch, Calgary, Alberta, Canada, plus 2 percent per annum, compounded monthly; or, if the amount payable is in United States currency, the then-effective prime rate of interest published under "Money Rates" by The Wall Street Journal, plus 2 percent per annum, compounded monthly; or (ii) the maximum applicable lawful interest rate.

"Interruptible" means that either party may interrupt its performance at any time for any reason without liability (other than liability with respect to Imbalance Charges imposed pursuant to Section 4.3 or 11.5).

"Joule" means the joule specified in the SI system of units.

"Liquid Delivery Point" means a point so designated on the Cover Sheet.

"Market Price" means the amount established by either (i) a bona fide offer accepted by the Non-Defaulting Party from a third party in an arms-length negotiation for a replacement transaction or (ii) quotations obtained by the Non-Defaulting Party, in good faith, from 3 Reference Market Makers, where the arithmetic average of the 3 quotations shall be the Market Price. If such quotations are not readily available, or the quotations will not reflect comprehensive treatment of the pricing structure for Transactions terminated pursuant to Section 10.3(iii), as determined in the reasonable discretion of the Non-Defaulting Party, the Non-Defaulting Party shall determine the Market Price by considering any or all of the following: (A) the settlement prices of New York Mercantile Exchange Gas Futures Contracts; (B) similar sales or purchases of Gas; or (C) information available to it internally, including, without limitation, information on relevant rates, prices, yields, yield curves, volatilities, spreads and other relevant market data, provided that such information is of the same type used by the Non-Defaulting Party in the regular course of its business for the valuation of similar transactions, all adjusted to consider the remaining Delivery Period, remaining Contract Quantities, Delivery Point and differences in transportation costs. A party shall not be required to enter into a replacement transaction in order to determine the Market Price. Any extension(s) of the Delivery Period of a Transaction to which the parties are not bound as of the Early Termination Date (including, without limitation, "evergreen provisions") shall not be considered in determining the Market Price. For the avoidance of doubt, the value of any option pursuant to which one party has the right to extend the Delivery Period of a Transaction shall be included in determining the Market Price.

"Market Value" of a Transaction means the net present value (applying the Present Value Discount Rate) of the product of (i) the quantity of Gas remaining under a Transaction pursuant to which the parties are obligated to transact, multiplied by (ii) the Market Price for a similar transaction taking into consideration the nature of the obligation and the remaining Delivery Period, remaining Contract Quantities and Delivery Point.

"MMBtu" means one million British Thermal Units which is equivalent to one Dekatherm.

"Month" means the period beginning on the first Day of the calendar month and ending immediately prior to the commencement of the first Day of the next calendar month.

"Net Settlement Amount" has the meaning set forth in Section 10.4.b.

"NIT" means NOVA Inventory Transfer.

"Nomination Change Period" means a reasonable period of time to change a nomination, taking into account the applicable Transporter's nomination deadline(s), after receipt of an operational notice pursuant to Section 4.2 or a notification pursuant to Section 11.5, as applicable.

"Non-Defaulting Party" has the meaning set forth in Section 10.3.

"Non-Performance" means the failure by a party to purchase and receive, or sell and deliver, Gas as required by any Transaction under this Contract, which failure is not excused by: (i) the non-performance (non-delivery or non-receipt, as applicable) of the other party; (ii) the exercise by a party of its suspension rights under Section 10; or (iii) Force Majeure.

"Non-Performing Party" means a party in relation to which a Non-Performance has occurred.

"Notice" has the meaning set forth in Section 9.1.

"NOVA" means NOVA Gas Transmission Ltd., or any successor company.

"Payee" has the meaning set forth in Section 10.2.

"Payment Date" means the 25<sup>th</sup> day of the Month following the Month of delivery.

"Payer" has the meaning set forth in Section 10.2.

"Performance Assurance" means support in the form, amount and term reasonably specified by the party demanding Performance Assurance, including, without limitation, a standby irrevocable letter of credit, a prepayment, a security

interest in an asset acceptable to the party demanding Performance Assurance or a performance bond or guarantee by an entity acceptable to the party demanding Performance Assurance.

"Performing Party" means, if a Non-Performance has occurred, the party which is not the Non-Performing Party.

"Present Value Discount Rate" means with respect to any Transaction: (i) if the amount payable is in Canadian currency, the yield of Canadian Government Treasury Bills with a term closest to the time remaining in the Delivery Period, plus 100 basis points; or (ii) if the amount payable is in United States currency, the "Ask Yield" interest rate for United States Government Treasury notes as quoted in the "Treasury Bonds, Notes, and Bills" section of the Wall Street Journal most recently published with a term closest to the time remaining in the Delivery Period, plus 100 basis points.

"PST" has the meaning set forth in Section 6.2.

"Receiving Transporter" means the Transporter receiving Gas at a Delivery Point, or absent such receiving Transporter, the Transporter delivering Gas at a Delivery Point.

"Reference Market Makers" means leading dealers in the physical gas trading market or the energy swap market, which are not Affiliates of either party, selected by the Non-Defaulting Party from among dealers of the highest credit standing, which satisfy all the criteria that such party applies generally at the time in deciding whether to offer or to make an extension of credit.

"Scheduled Gas" means the quantity of Gas confirmed by Transporter(s) for movement, transportation or management.

"Seller" refers to the party delivering Gas pursuant to a Transaction.

"Special Provisions" means any written amendment to the Cover Sheet and/or these General Terms and Conditions as may be attached to the Cover Sheet.

"Spot Price" means the price listed in the publication specified by the parties on the Cover Sheet, under the listing applicable to the geographic location closest in proximity to the Delivery Point(s) for the relevant Day; provided, 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 immediately 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.

"Taxes" has the meaning set forth in Section 6.1.

"Termination Payment" for a Transaction means the difference between the Market Value and the Contract Value as of the Early Termination Date. If the Non-Defaulting Party is Seller under that Transaction and: (i) the Market Value is greater than the Contract Value, then the Termination Payment in respect of that Transaction will be positive (gain); or (ii) if the Market Value is less than the Contract Value, the Termination Payment in respect of that Transaction will be negative (loss). If the Non-Defaulting Party is Buyer under that Transaction and: (A) the Contract Value is greater than the Market Value, the Termination Payment in respect of that Transaction will be positive (gain); or (B) if the Contract Value is less than the Market Value, the Termination Payment in respect of that Transaction will be negative (loss). Any loss with respect to a Transaction will be owed by the Defaulting Party to the Non-Defaulting Party and any gain with respect to a Transaction will be owed by the Non-Defaulting Party to the Defaulting Party.

"Termination Right" means the right of the Performing Party to terminate an Affected Transaction in the circumstances described in Section 3.3, if the parties have selected this option as indicated on the Base Contract.

"Transaction" means any Gas sale, purchase or exchange agreement effected pursuant to the Base Contract.

"Transaction Confirmation" means a document, similar to the form of Exhibit A, setting forth the terms of a Transaction.

"Transporter(s)" means all Gas gathering or pipeline companies, or local distribution companies, acting in the capacity of a transporter, transporting Gas for Seller or Buyer upstream or downstream, respectively, of the Delivery Point pursuant to a Transaction.

"Uncovered Gas" has the meaning set forth in Section 3.2.

"Unpaid Amounts" has the meaning set forth in Section 10.4.a.

### SECTION 3 - PERFORMANCE OBLIGATION

3.1 Seller agrees to sell and deliver, and Buyer agrees to purchase and receive, the Contract Quantity for each Transaction in accordance with the terms of this Contract. Sales and purchases will be on a Firm or Interruptible basis, as agreed in each Transaction.

The parties have selected either the "Cover Standard" version or the "Spot Price Standard" version as indicated on the Cover Sheet.

#### Cover Standard:

3.2 In the event of a breach of a Firm obligation, the Performing Party shall be entitled to recovery of the following for each Day that the breach occurs: (i) in the event of a breach by Seller on any Day, payment by Seller to Buyer in an amount equal to the difference between the Contract Quantity and the quantity of Gas actually delivered by Seller for such Day, multiplied by the positive difference, if any, obtained by subtracting the Contract Price from the price paid by Buyer utilizing the Cover Standard for replacement Gas, adjusted for commercially reasonable differences in transportation costs to or from the Delivery Point(s); or (ii) in the event of a breach by Buyer on any Day, payment by Buyer to Seller in an amount equal to the difference between the Contract Quantity and the quantity of Gas actually received by Buyer for such Day, multiplied by the positive difference, if any, obtained by subtracting the price received by Seller utilizing the Cover Standard for the sale of such Gas from the Contract Price, adjusted for commercially reasonable differences in transportation costs to or from the Delivery Point(s); provided that, in the event that Buyer has used commercially reasonable efforts to purchase Gas from a third party or Seller has used commercially reasonable efforts to sell Gas to a third party, and no such purchase or sale for all or any portion of such Gas is available ("Uncovered Gas"), then the price paid by Buyer utilizing the Cover Standard or the price received by Seller utilizing the Cover Standard, as applicable, for the Uncovered Gas shall be deemed to be the Spot Price. Imbalance Charges shall not be recovered under this Section 3.2, but Seller and/or Buyer shall be responsible for Imbalance Charges, if any, as provided in Section 4.3. The recovery of the amount calculated above shall, to the extent such amount is paid, be the sole and exclusive remedy of the Performing Party for a breach of a Firm obligation.

#### Spot Price Standard:

3.2 In the event of a breach of a Firm obligation, the Performing Party shall be entitled to recovery of the following for each Day that the breach occurs: (i) in the event of a breach by Seller on any Day, payment by Seller to Buyer in an amount equal to the difference between the Contract Quantity and the quantity of Gas actually delivered by Seller for such Day, multiplied by the positive difference, if any, obtained by subtracting the Contract Price from the Spot Price; or (ii) in the event of a breach by Buyer on any Day, payment by Buyer to Seller in an amount equal to the difference between the Contract Quantity and the quantity of Gas actually received by Buyer for such Day, multiplied by the positive difference, if any, obtained by subtracting the Spot Price from the Contract Price. Imbalance Charges shall not be recovered under this Section 3.2, but Seller and/or Buyer shall be responsible for Imbalance Charges, if any, as provided in Section 4.3. The recovery of the amount calculated above shall, to the extent such amount is paid, be the sole and exclusive remedy of the Performing Party for a breach of a Firm obligation.

The parties have selected either the Termination Right "Does Not Apply" or "Applies" as indicated on the Cover Sheet.

3.3 In addition to the rights set out in Sections 3.2 and 10, unless otherwise specified on the applicable Transaction Confirmation, a Performing Party shall have the right ("Termination Right") to terminate, accelerate and liquidate an Affected Transaction by providing Notice to the Non-Performing Party designating an Early Termination Date, which date shall be between 1 and 5 Business Days following the most recent Non-Performance causing the Affected Transaction, but no earlier than the effective date of the Notice, on which date the Affected Transaction shall terminate. Following the exercise of its Termination Right, the Performing Party shall calculate the Termination Payment in respect of the Affected Transaction, which amount shall be paid in accordance with Section 10.4, all as if an Early Termination Date had occurred, the Affected Transaction was the only Transaction, the Performing Party was the Non-Defaulting Party and the Non-Performing Party was the Defaulting Party. The exercise of the Termination Right shall not be deemed to be an Event of Default or similar default with respect to the Affected Transaction, any other Transactions or any other agreement between the parties. If the Performing Party fails to provide Notice to exercise its Termination Right within 5 Business Days of the occurrence of the last Non-Performance that gave rise to that Termination Right, the Termination Right shall expire, but without prejudice to any Termination Right that may subsequently arise upon the occurrence of a further Non-Performance in respect of that Transaction.

#### SECTION 4 - TRANSPORTATION, NOMINATIONS AND IMBALANCES

4.1 Seller shall have the sole responsibility for transporting the Gas to the Delivery Point(s) and for delivering such Gas at a pressure sufficient to effect such delivery but not to exceed the maximum operating pressure of the Receiving Transporter. Buyer shall have the sole responsibility for transporting the Gas from the Delivery Point(s).

4.2 The parties shall coordinate their Gas nomination and scheduling activities, giving sufficient time to meet the deadlines of the affected Transporter(s). Each party shall give the other party timely prior operational notice, sufficient to meet the requirements of all Transporter(s) involved in the Transaction, of the quantities of Gas to be delivered and purchased each Day. Such operational notice may be made by any mutually agreeable means, including, without limitation, phone, fax and email. Should either party become aware that actual deliveries at the Delivery Point(s) are greater or lesser than the Scheduled Gas, such party shall promptly notify the other party.

4.3 The parties shall use commercially reasonable efforts to avoid the imposition of any Imbalance Charges. If a party receives an invoice from a Transporter that includes Imbalance Charges, the parties shall determine the validity as well as the cause of such Imbalance Charges. Imbalance Charges are payable by the party that caused such Imbalance Charges. Notwithstanding the provisions of Sections 10.2, 10.3 and 11.5, if the other party had sufficient ability to avoid any Imbalance Charges through a revision of the nomination with the Transporter during the Nomination Change Period, then that other party shall be deemed to have caused such Imbalance Charges. A party shall be reimbursed promptly by the other party if that party pays Imbalance Charges that were caused by the other party.

#### SECTION 5 - QUALITY AND MEASUREMENT

5.1 All Gas delivered by Seller shall meet the quality and heat content requirements of the Receiving Transporter. The unit of quantity measurement for purposes of this Contract shall be specified as one MMBtu dry, one Dekatherm dry, one GJ or one  $10^3\text{m}^3$ . Measurement of Gas quantities under this Contract shall be in accordance with the established procedures of the Receiving Transporter.

SECTION 6 - TAXES

The parties have selected either the "Buyer Pays At and After Delivery Point" version or the "Seller Pays Before and At Delivery Point" version as indicated on the Cover Sheet.

Buyer Pays At and After Delivery Point:

6.1 Seller shall pay or cause to be paid all taxes, fees, levies, penalties, licenses, interest or charges imposed by any government authority ("Taxes") on or with respect to the Gas prior to the Delivery Point(s). Buyer shall pay or cause to be paid all Taxes on or with respect to the Gas at the Delivery Point(s) and all Taxes after the Delivery Point(s). If a party is required to remit or pay Taxes that are the other party's responsibility under this Contract, the party responsible for such Taxes shall promptly reimburse the other party for such Taxes. Any party entitled to an exemption from any such Taxes or charges shall furnish the other party any necessary documentation.

Seller Pays Before and At Delivery Point:

6.1 Seller shall pay or cause to be paid all taxes, fees, levies, penalties, licenses, interest or charges imposed by any government authority ("Taxes") on or with respect to the Gas prior to the Delivery Point(s) and all Taxes at the Delivery Point(s). Buyer shall pay or cause to be paid all Taxes on or with respect to the Gas after the Delivery Point(s). If a party is required to remit or pay Taxes which are the other party's responsibility under this Contract, the party responsible for such Taxes shall promptly reimburse the other party for such Taxes. Any party entitled to an exemption from any such Taxes or charges shall furnish the other party any necessary documentation.

6.2 The Contract Price does not include any amounts payable by Buyer for the goods and services tax or harmonized sales tax (collectively "GST") imposed pursuant to the ETA or any similar or replacement value added or sales or use tax enacted under successor legislation, or any provincial sales tax ("PST") imposed by a province. Notwithstanding the selection made pursuant to Section 6.1, Buyer shall pay to Seller the amount of GST and PST payable for the purchase of Gas in addition to all other amounts payable under this Contract. Seller shall hold the GST and PST paid by Buyer and shall remit such GST and PST as required by law. Buyer and Seller shall provide each other with the information required to make such GST or PST remittance or claim any corresponding input tax credits, including, without limitation, GST and PST registration numbers.

6.3.a Where Buyer is not registered for GST under the ETA and Buyer provides a written undertaking to Seller that Gas will be exported from Canada, Buyer may request Seller treat such Gas as "zero-rated" Gas for export within the meaning of the ETA for invoicing purposes. If Seller, in its sole discretion, agrees to so treat such Gas, then Buyer hereby declares, covenants, represents and warrants to Seller that Buyer shall: (i) export such Gas as soon as is reasonably possible after Seller delivers such Gas to Buyer (or after such Gas is delivered to Buyer after a zero-rated storage service under the ETA) having regard to the circumstances surrounding the export and, where applicable, normal business practice; (ii) not have acquired such Gas for consumption or use in Canada (other than as fuel or compressor gas to transport such Gas by pipeline) or for supply in Canada (other than to supply natural gas liquids or ethane, the consideration for which is deemed by the ETA to be nil) before export of such Gas; (iii) ensure that, after such Gas is delivered and before export, such Gas is not further processed, transformed or altered in Canada (except to the extent reasonably necessary or incidental to its transportation and other than to recover natural gas liquids or ethane from such Gas at a straddle plant); (iv) maintain on file, and provide to Seller, if required, or to the Canada Revenue Agency, if requested, evidence satisfactory to the Minister of National Revenue of the export of such Gas by Buyer; and/or (v) comply with all other requirements prescribed by the ETA for a zero-rated export of such Gas.

6.3.b Where Buyer is registered for GST under the ETA and Buyer provides to Seller a declaration in writing that Buyer intends to export Gas from Canada by means of pipeline or other conduit in circumstances described in Section 6.3.a (i) to (iii), such Gas shall be "zero-rated" within the meaning of the ETA unless Seller knows or has reason to believe that such circumstances will not prevail.

6.3.c Without limiting the generality of Section 6.3, Buyer indemnifies Seller for any GST, penalties and interest and all other damages and costs of any nature arising from breach of the declarations, covenants, representations and warranties contained in Section 6.3.a or 6.3.b, or otherwise, from application of GST to Gas declared, covenanted, represented and warranted by Buyer to be acquired for export from Canada.

6.4 Notwithstanding the selection made pursuant to Section 6.1, where Gas is imported into Canada by pipeline or other conduit, the person for whose account the Canadian Transporter received custody from the American Transporter shall act as importer for purposes of the Customs Act (Canada) and pay any GST or duties owing pursuant to the importation.

6.5 In the event that any amount becomes payable pursuant to this Contract as a result of a breach, modification or termination of this Contract, the amount payable shall be increased by any applicable Taxes, GST and PST remittable by the recipient in respect of that amount.

#### SECTION 7 - INVOICING, PAYMENT AND AUDIT

7.1 On or before the 15<sup>th</sup> day of each Month, Seller shall invoice Buyer for Gas delivered and received in the preceding Month and for any other amounts payable under this Contract arising in or before the preceding Month, including, without limitation, Imbalance Charges, and shall provide supporting documentation acceptable in industry practice to support the amount payable. If the actual quantity of Gas delivered and received in the preceding Month is not known by Seller by the invoice date, Seller will prepare the invoice based on the quantity of Scheduled Gas. The invoiced quantity of Gas will then be adjusted to the actual quantity of Gas on the following Month's invoice or as soon thereafter as actual delivery and receipt information is available.

The parties have selected either "Closest Business Day to Payment Date" or "Next Business Day following Payment Date" as indicated on the Cover Sheet.
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Closest Business Day to Payment Date:
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7.2.a Buyer shall remit the amount due in the manner specified on the Cover Sheet, in immediately available funds, on or before the later of the Payment Date or 10 days after receipt of the invoice by Buyer; provided that: if the Payment Date falls on a Sunday, or a Monday which is not a Business Day, payment is due on the next following Business Day; and if the Payment Date falls on a Saturday, or a weekday, other than a Monday, which is not a Business Day, payment is due on the immediately preceding Business Day.
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Next Business Day following Payment Date:
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7.2.a Buyer shall remit the amount due in the manner specified on the Cover Sheet, in immediately available funds, on or before the later of the Payment Date or 10 days after receipt of the invoice by Buyer; provided that: if the Payment Date is not a Business Day, payment is due on the next following Business Day.
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7.2.b If Buyer, in good faith, disputes the amount of any invoice or any part of such invoice, Buyer will pay to Seller such amount as Buyer concedes to be correct; provided that, if Buyer disputes the amount due, Buyer must provide, by the Payment Date, supporting documentation acceptable in industry practice to support the amount paid or disputed. Within 3 Business Days following resolution of the invoice dispute, any underpayments or overpayments shall be paid or refunded with accrued interest at the Interest Rate for the period from the date of underpayment or overpayment until paid.

7.3 In the event any payments are due Buyer under this Contract, payment to Buyer shall be made in accordance with this Section 7 *mutatis mutandis*.

7.4 If a party fails to remit the full amount payable by it when due, interest at the Interest Rate on the unpaid portion shall accrue from the date due until the date of payment.

7.5 Payment shall be made in the currency of the Contract Price.

7.6 The parties shall net all same currency amounts due and owing, and/or past due, arising under this Contract such that the party owing the greater amount shall make a single payment of the net amount to the other party in accordance with Section 7; provided that no payment required to be made pursuant to the terms of the Credit Annex or any other credit support document or agreement shall be subject to netting under this or any other provision of this

Contract. In the event that the parties have executed a separate netting agreement, the terms and conditions in that separate netting agreement shall prevail.

7.7 A Performing Party may accelerate the payment owed by the Non-Performing Party related to a Non-Performance by sending to the Non-Performing Party an invoice ("Accelerated Payment Invoice") for the amounts due it under Section 3.2, setting forth the calculation of such amounts and a statement that pursuant to this Section 7.7 such amount is due in 3 Business Days. If the Performing Party does not deliver an Accelerated Payment Invoice, amounts payable pursuant to Section 3.2 shall be invoiced and payable in accordance with Sections 7.1 and 7.2. The Non-Performing Party must pay the Accelerated Payment Invoice when due and the Non-Performing Party: (i) shall not be entitled to net amounts owed to it under this Contract by the Performing Party against its obligation to make payment on an Accelerated Payment Invoice; and (ii) shall, notwithstanding Section 7.2, pay the full amount of the Accelerated Payment Invoice despite any dispute it may have as to the amount owing under such Accelerated Payment Invoice. To the extent any disputed amount is subsequently resolved in favour of the Non-Performing Party, the Performing Party shall promptly pay such amount to the Non-Performing Party with accrued interest at the Interest Rate for the period from the date of dispute until the disputed amounts are paid in full.

7.8 A party shall have the right, at its own expense, upon reasonable notice and at reasonable times, to examine the books and records of the other party only to the extent reasonably necessary to verify the accuracy of any statement, charge, payment, or computation made under this Contract. This examination right shall not be available with respect to proprietary information not directly relevant to Transactions. All invoices shall be conclusively presumed final and accurate unless objected to in writing, with adequate explanation and/or documentation, within two years after the Month of Gas delivery. All retroactive adjustments under Section 7 shall be paid in full by the party owing payment within 30 days of notice and substantiation of such inaccuracy.

#### **SECTION 8 - TITLE, WARRANTY AND INDEMNITY**

8.1 Unless otherwise specifically agreed, title to the Gas shall pass from Seller to Buyer at the Delivery Point(s). Seller shall have responsibility for and assume any liability with respect to the Gas prior to its delivery to Buyer at the specified Delivery Point(s). Buyer shall have responsibility for and assume any liability with respect to said Gas after its delivery to Buyer at the Delivery Point(s).

8.2 Seller warrants that Seller will have the right to convey and will transfer good and merchantable title to all Gas sold under this Contract and delivered by Seller to Buyer, free and clear of all liens, encumbrances, and claims.

8.3 Seller agrees to indemnify Buyer and save Buyer harmless from all losses, liabilities and claims, including, without limitation, reasonable legal fees, on a solicitor and its client basis, and costs of court ("Claims"), from any and all persons, arising from or out of claims of title, personal injury or property damage from said Gas or other charges thereon which attach before title passes to Buyer. Buyer agrees to indemnify Seller and save Seller harmless from all Claims, from any and all persons, arising from or out of claims regarding payment, personal injury or property damage from said Gas or other charges thereon which attach after title passes to Buyer.

8.4 Notwithstanding the other provisions of this Section 8, as between Seller and Buyer, Seller will be liable for all Claims to the extent that such arise from the failure of Gas delivered by Seller to meet the quality requirements of Section 5, or Seller's warranty obligations pursuant to Section 8.2.

#### **SECTION 9 - NOTICES**

9.1 All Transaction Confirmations, invoices, payments and other communications made pursuant to this Contract ("Notices") shall be in writing and made to the addresses for Notices specified by each party as indicated on the Cover Sheet or such addresses for Notices as specified from time to time by a party in a subsequent Notice.

9.2 Notices may be delivered personally or by courier, or sent by facsimile or mutually agreeable electronic means.

9.3 Notice is deemed made on the day of delivery if delivered personally or by courier, or on the day sent by facsimile or mutually agreeable electronic means, provided that in all such cases such day is a Business Day and the

Notice is received prior to 5:00 p.m. on such day. Otherwise, such Notice will be deemed made on the next following Business Day.

#### SECTION 10 - FINANCIAL RESPONSIBILITY, DEFAULTS AND REMEDIES

10.1.a If a party has reasonable grounds for insecurity regarding the payment, performance or enforceability of any obligation under this Contract, such party may demand Performance Assurance, whether or not an Event of Default or Non-Performance has occurred, which Performance Assurance shall be provided by the other party by (i) the end of the next Business Day after the demand is received if the demand is received by 12:00 noon on a Business Day, or (ii) the end of the 2<sup>nd</sup> Business Day after the demand is received if the demand is received after 12:00 noon on a Business Day. The Performance Assurance shall not exceed the Net Settlement Amount, calculated as of the date of the demand, as if all Transactions had been terminated. Notwithstanding the foregoing provisions of this Section 10.1.a, if the Non-Defaulting Party has designated an Early Termination Date, then the Defaulting Party may not demand Performance Assurance under this Section 10.1.a.

10.1.b The party demanding Performance Assurance may, until such Performance Assurance is provided, withhold any amounts owed to the other party under this Contract or any other agreement between the parties (whether or not yet due) and setoff against such withheld amounts any amounts owed to the party demanding Performance Assurance under this Contract (whether or not yet due).

10.2 If a party ("Payer") does not pay the other party ("Payee") any amount owed to Payee in accordance with Section 7, then Payee may, immediately upon giving Notice to Payer, exercise any or all of the following remedies: (i) suspend its performance under all Transactions under this Contract; (ii) withhold any amounts owed to Payer under this Contract or any other agreement between the parties (whether or not yet due); and (iii) setoff against such withheld amounts any amounts owed to Payee under this Contract (whether or not yet due). If Payee suspends its performance pursuant to this Section 10.2, Payee shall, for the period of the suspension, be entitled to damages calculated in accordance with Section 3.2, with Payee treated as the Performing Party under Section 3.2 for the purposes of this Section 10.2 and, for the purposes of Section 4.3, Payer shall be deemed to have caused any Imbalance Charges that accrue during the suspension period. If Payee has suspended performance under this Section 10.2 and Payer has paid all amounts owed to Payee in accordance with Section 7 and Payee has not designated an Early Termination Date pursuant to Section 10.3, then, promptly after such payment has been made, the parties shall resume performance under this Contract.

10.3 If an Event of Default occurs and is continuing with respect to a party ("Defaulting Party"), then the other party ("Non-Defaulting Party") shall have the right to exercise any or all of the following remedies: (i) if the Non-Defaulting Party has not previously suspended performance pursuant to Section 10.2, immediately upon giving Notice to the Defaulting Party, to suspend the Non-Defaulting Party's performance under all Transactions under this Contract; (ii) without Notice, to withhold or continue to withhold any amounts owed to the Defaulting Party under this Contract or any other agreement between the parties (whether or not yet due) and setoff against such withheld amounts any amounts owed the Non-Defaulting Party under this Contract (whether or not yet due); and (iii) to terminate, accelerate and liquidate all Transactions then outstanding (or not yet commenced) in accordance with the provisions of this Section 10 by providing Notice to the Defaulting Party designating an early termination date, which date shall be between 1 and 20 Business Days following the Event of Default but no earlier than the effective date of the Notice, on which date all such Transactions shall terminate ("Early Termination Date"). For the purposes of Section 4.3, if the Non-Defaulting Party suspends its performance under Section 10.3(i), the Defaulting Party shall be deemed to have caused any Imbalance Charges that accrue during the suspension period. If a Non-Defaulting Party has suspended performance under Section 10.2 or 10.3 and (A) the Defaulting Party remedies the Event of Default prior to receipt of Notice from the Non-Defaulting Party designating the Early Termination Date; or (B) the Defaulting Party does not remedy the Event of Default and the Non-Defaulting Party has not designated an Early Termination Date within such 20 Business Days, then the parties shall promptly thereafter resume performance under this Contract.

10.4.a As of the Early Termination Date, the Non-Defaulting Party shall determine, in good faith and in a commercially reasonable manner: (i) the amount owed (whether or not then due or invoiced) by each party with respect to all Gas delivered and received between the parties under all terminated Transactions on and before the Early Termination Date and all other amounts owing by each party to the other party under this Contract (including, without limitation, any amounts owing under Sections 3.2, 4.3 and 7.1) for which payment has not yet been made by the party that owes such

payment under this Contract ("Unpaid Amounts"), and (ii) the Termination Payment owed by one party to the other under each Transaction.

10.4.b The Non-Defaulting Party shall net or aggregate, as appropriate, all: (i) Termination Payments; (ii) Costs; and (iii) Unpaid Amounts, to a single liquidated amount payable by one party to the other party (the single resulting amount being the "Net Settlement Amount").

10.4.c At its sole option and without Notice to the Defaulting Party, the Non-Defaulting Party may net or setoff against any Net Settlement Amount owing by the Non-Defaulting Party to the Defaulting Party any amounts owing to the Non-Defaulting Party by the Defaulting Party under any other agreement between the parties (the single resulting amount being the "Final Liquidation Amount").

10.4.d If any amount to be included in the Final Liquidation Amount is unascertained, the Non-Defaulting Party may estimate in good faith the amount to be included, and once it is ascertained, the Final Liquidation Amount shall be subject to further adjustment by the Non-Defaulting Party, if applicable. Interest at the Interest Rate shall accrue on any underpayments or overpayments determined to have occurred from any such adjustment from the date of the underpayment or overpayment until paid.

10.4.e Once the Non-Defaulting Party has made the necessary calculations, it shall provide Notice to the Defaulting Party of the Final Liquidation Amount, setting forth in reasonable detail how such calculations were made together with supporting documentation. Failure to give such Notice shall not affect the validity or enforceability of the Final Liquidation Amount or give rise to any claim by the Defaulting Party against the Non-Defaulting Party for failure to give such Notice.

10.4.f The Final Liquidation Amount shall be paid: (i) if due from the Defaulting Party to the Non-Defaulting Party, by the Defaulting Party within 2 Business Days of Notice of the Final Liquidation Amount; or (ii) if due from the Non-Defaulting Party to the Defaulting Party, by the Non-Defaulting Party on the 25<sup>th</sup> day of the Month following the Month in which the Early Termination Date occurs. The Final Liquidation Amount, if payable by the Defaulting Party, shall be paid in full by the Defaulting Party, even if all or any part of the Final Liquidation Amount is in dispute. To the extent any disputed amount is subsequently resolved in favour of the Defaulting Party, the Non-Defaulting Party shall promptly pay such amount to the Defaulting Party with accrued interest at the Interest Rate for the period from the date of dispute until the disputed amounts are paid in full.

10.4.g With respect to this Section 10, if the parties have executed a separate netting agreement, the terms and conditions set forth in that separate netting agreement concerning the calculation of the Final Liquidation Amount shall prevail to the extent they are inconsistent with the provisions of this Contract.

10.4.h Upon the designation of an Early Termination Date in accordance with Section 10.3, the Non-Defaulting Party may (i) exercise any of the rights and remedies of a secured party with respect to all Performance Assurance or other support then available to the Non-Defaulting Party, and/or (ii) draw on any outstanding letter of credit issued for the Non-Defaulting Party's benefit, subject in each case to the Credit Annex, if any, and the Non-Defaulting Party's obligation to return any surplus proceeds remaining after such obligations are satisfied in full.

10.5 In the event a party is a Non-Performing Party, the Performing Party shall have the right to: (i) withhold any or all payments due the Non-Performing Party under this Contract for the period of the applicable Non-Performance and net or setoff amounts due the Performing Party against such withheld amounts; (ii) during the period of the applicable Non-Performance, upon at least 1 Business Day's Notice, suspend its performance under any or all Transactions; and/or (iii) if the Non-Performing Party fails to pay any Accelerated Payment Invoice when due, the Performing Party may, without further Notice to the Non-Performing Party, declare an Early Termination Date with respect to the particular Transaction to which the Non-Performance relates in accordance with Section 10.3. The failure of the Performing Party to exercise any of the rights or remedies contained in this Section 10.5 shall not constitute a waiver of the Non-Performance, the requirement for payment as contemplated by Section 3.2 or any of the other rights or remedies of the Performing Party in connection with such matters.

**SECTION 11 - FORCE MAJEURE**

11.1 Except with regard to a party's obligation to make payment due under this Contract, neither party shall be liable to the other for failure to perform a Firm obligation, to the extent such performance is prevented by Force Majeure.

The parties have selected either the "Option A" version or the "Option B" version as indicated on the Cover Sheet.

**Option A:**

11.2 "Force Majeure" means any event not reasonably within the control of the Claiming Party which event prevents or restricts delivery by Seller or receipt by Buyer, as applicable, of Gas pursuant to a Transaction, including, without limitation, the following events: (i) physical events such as acts of God; landslides; lightning; earthquakes; fires; storms or storm warnings, such as hurricanes, resulting in evacuation of the affected area; floods; washouts; explosions; breakage or accident or necessity of repairs to machinery or equipment or lines of pipe; (ii) weather-related events affecting an entire geographic region, such as low temperatures which cause freezing or failure of wells or lines of pipe; (iii) interruption or curtailment of firm transportation or storage by Transporters or storage operators; (iv) acts of others such as strikes, lockouts or other industrial disturbances, riots, sabotage, terrorist acts, insurrections or wars; or (v) compliance with any court order, law, statute, ordinance, or regulation promulgated by a governmental authority having jurisdiction.

**Option B:**

11.2.a If the Delivery Point is NIT, "Force Majeure" means any one or more of the following events which prevents or restricts delivery by Seller or receipt by Buyer, as applicable, of Gas at NIT: (i) an interruption, curtailment or pro-rationing by NOVA of firm NIT service which affects all NOVA shippers who had nominated for firm deliveries or firm receipts to take place by NIT on that Day; or (ii) compliance with any court order, law, statute, ordinance, or regulation promulgated by a governmental authority having jurisdiction; provided that, on any Day or any portion of a Day when there is a Force Majeure and either party provides Notice of the Force Majeure to the other, Seller shall deliver to Buyer, and Buyer shall receive from Seller, that percentage of the Contract Quantity which is equal to the percentage amount of Gas which according to NOVA has been nominated by all NOVA shippers for NIT and which NOVA is not interrupting, curtailing or pro-rationing on the Day or that portion of a Day.

11.2.b If the Delivery Point is a Liquid Delivery Point, "Force Majeure" means any one or more of the following events which prevents or restricts delivery by Seller or receipt by Buyer, as applicable, of Gas at a Liquid Delivery Point: (i) an interruption, curtailment, or pro-rationing by a Transporter, or storage operator, of firm service at the Liquid Delivery Point, regardless of the reasons therefor; or (ii) compliance with any court order, law, statute, ordinance, or regulation promulgated by a governmental authority having jurisdiction; provided that this Section 11.2.b shall not apply if the parties have not expressly identified any Liquid Delivery Points.

11.2.c If the Delivery Point is other than NIT or a Liquid Delivery Point, "Force Majeure" has the meaning set forth in Option A.

11.3 This Section 11.3 is applicable only if the parties have selected either Option A above or if Section 11.2.c of Option B above applies. Neither party shall be entitled to the benefit of the provisions of Section 11 to the extent performance is affected by any or all of the following circumstances: (i) the curtailment of interruptible or secondary firm transportation unless primary, in path, firm transportation is also curtailed; (ii) the Claiming Party having failed to avoid the adverse implications, or to remedy the condition in accordance with Section 11.4 and to resume the performance of such covenants or obligations with reasonable dispatch, or to provide timely notification in accordance with Section 11.5; (iii) economic hardship, including, without limitation, lack of finances, Seller's ability to sell Gas at a higher or more advantageous price than the Contract Price, Buyer's ability to purchase Gas at a lower or more advantageous price than the Contract Price; (iv) a regulatory agency disallowing, in whole or in part, the pass-through of costs resulting from this Contract; or (v) scheduled maintenance by a Transporter or storage operator, provided that notice of such scheduled maintenance has been provided by such Transporter or storage operator at or prior to the time the parties entered into the Transaction.

11.4 The Claiming Party shall make commercially reasonable efforts to avoid the adverse impacts of a Force Majeure and to resolve the event once it has occurred in order to resume performance; provided that the parties agree that nothing contained in this Section 11 shall require: (i) the settlement of strikes, lockouts or other industrial disturbances except in the sole discretion of the party experiencing such disturbance; (ii) the extension of the Delivery Period of any Transaction; (iii) the parties to make up any quantity of Gas they would otherwise have been obligated to sell and purchase during any period when Force Majeure was validly claimed; (iv) Seller to deliver, or Buyer to receive, the Gas at a point other than the Delivery Point; or (v) Seller to purchase replacement Gas at a price greater than the Contract Price.

11.5 The Claiming Party must provide notification to the other party of the occurrence of the Force Majeure. Initial notification may be given orally; provided that, as a condition precedent to claiming relief under this Section 11.5, the Claiming Party must give Notice with reasonably full particulars of the event as soon as reasonably possible. Notwithstanding Section 9, such Notice shall be deemed effective at the onset of the occurrence of the Force Majeure, and the Claiming Party will be relieved of its obligation to make or accept delivery of Gas, as applicable, to the extent and for the duration of the Force Majeure. For the purposes of Section 4.3, in the event of a Force Majeure, Claiming Party shall be deemed to have caused any Imbalance Charges arising from the interruption or curtailment of Firm deliveries or receipts due to the Force Majeure.

11.6 If a Force Majeure only partially affects the Claiming Party's ability to perform its purchase or sale obligations at a Delivery Point, the Claiming Party shall curtail its interruptible obligations at such Delivery Point to the extent required to meet its Firm obligations under this Contract. If, after completely curtailing all of its interruptible obligations, the Claiming Party is still unable to meet its Firm obligations under this Contract, then such affected party may, to the extent permitted by the applicable Transporter(s), reduce its Firm obligations under this Contract by the same percentage that all of its other firm obligations at the Delivery Point are reduced, without regard to the price paid under any transaction between the Claiming Party and the other firm customers or suppliers, as applicable, of the Claiming Party.

#### **SECTION 12 - TERM**

12.1 This Contract may be terminated by either party on 30 days' Notice, but shall remain in effect until the expiration of the latest Delivery Period of all Transaction(s). The rights of either party pursuant to Section 7.8, the obligations of either party pursuant to Section 14.10, the obligations to make payment under this Contract, and the obligation of either party to indemnify the other party pursuant to this Contract, shall survive the termination of this Contract.

#### **SECTION 13 - LIMITATIONS**

13.1.a EXCEPT AS SET FORTH IN SECTION 8, THE SPECIAL PROVISIONS OR THE APPLICABLE TRANSACTION CONFIRMATION, THERE IS NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY AND ALL IMPLIED WARRANTIES ARE DISCLAIMED.

13.1.b FOR BREACH OF ANY PROVISION OF THIS CONTRACT FOR WHICH AN EXPRESS MEASURE OF DAMAGES IS PROVIDED IN THIS CONTRACT, A PARTY'S LIABILITY FOR DAMAGES FOR THAT BREACH SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION, AND ALL OTHER DAMAGES AT LAW OR IN EQUITY ARE WAIVED. IF NO EXPRESS MEASURE OF DAMAGES IS PROVIDED IN THIS CONTRACT, A PARTY'S LIABILITY SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY, AND ALL OTHER DAMAGES AT LAW OR IN EQUITY ARE WAIVED.

13.1.c EXCEPT TO THE EXTENT PROVIDED IN THIS CONTRACT AS AN EXPRESS MEASURE OF DAMAGES, NEITHER PARTY SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, INCLUDING, WITHOUT LIMITATION, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, ARISING BY STATUTE, IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION OR OTHERWISE.

13.1.d IT IS THE INTENT OF THE PARTIES THAT THE LIMITATIONS IMPOSED ON REMEDIES AND THE MEASURE OF DAMAGES IN THIS SECTION 13.1 BE WITHOUT REGARD TO THE RELATED CAUSE OR CAUSES,

INCLUDING, WITHOUT LIMITATION, THE NEGLIGENCE OF ANY PARTY, WHETHER SUCH NEGLIGENCE BE SOLE, JOINT OR CONCURRENT, OR ACTIVE OR PASSIVE.

13.1.e TO THE EXTENT THAT ANY DAMAGES REQUIRED TO BE PAID UNDER THIS CONTRACT ARE LIQUIDATED, THE PARTIES ACKNOWLEDGE THAT THE MEASURE OF DAMAGES IS DIFFICULT OR IMPOSSIBLE TO DETERMINE, OR THAT OTHERWISE OBTAINING AN ADEQUATE MEASURE OF DAMAGES IS INCONVENIENT AND THE DAMAGES CALCULATED UNDER THIS CONTRACT, INCLUDING, WITHOUT LIMITATION, DAMAGES UNDER SECTIONS 3.2 AND 10.4, CONSTITUTE REASONABLE APPROXIMATIONS OF THE HARM OR LOSS SUFFERED AND ARE NOT INTENDED AS PENALTIES.

13.1.f NOTHING IN THIS SECTION 13.1 SHALL LIMIT THE RIGHT OF A PARTY TO RECOVER OR ENFORCE A RIGHT TO DAMAGES PERMITTED BY THIS CONTRACT.

13.1.g EXCEPT AS LIMITED IN THIS SECTION 13.1, SECTION 3.2, THE SPECIAL PROVISIONS OR THE APPLICABLE TRANSACTION CONFIRMATION, EACH PARTY RESERVES TO ITSELF ANY AND ALL RIGHTS, REMEDIES, SETOFFS, COUNTERCLAIMS AND DEFENCES THAT MAY BE AVAILABLE TO IT AT LAW OR IN EQUITY IN RESPECT OF THE SUBJECT MATTER OF THIS CONTRACT.

#### SECTION 14 - MISCELLANEOUS

14.1. This Contract shall be binding upon and inure to the benefit of the successors, assigns, personal representatives, and heirs of the respective parties to this Contract. No assignment of this Contract, in whole or in part, will be made without the prior written consent of the non-assigning party, which consent will not be unreasonably withheld or delayed; provided, either party may (i) transfer, sell, pledge, encumber, or assign this Contract or the accounts, revenues, or proceeds of this Contract in connection with any financing or other financial arrangements, or (ii) transfer its interest to any parent or Affiliate by assignment, merger or otherwise without the prior approval of the other party. Upon assignment, transfer and assumption, the assignor or transferor, as applicable, shall remain principally liable for and shall not be relieved of nor discharged from any obligations under this Contract without the written consent of the non-assigning party.

14.2 If any provision in this Contract is determined to be invalid, void or unenforceable by any court having jurisdiction, such determination shall not invalidate, void, or make unenforceable any other provision, agreement or covenant of this Contract.

14.3 No waiver of any breach of this Contract shall be held to be a waiver of any other or subsequent breach, and any waiver of any breach of this Contract by a party shall not be effective unless it is in writing.

14.4 This Contract sets forth all understandings between the parties respecting each Transaction, and any prior contracts, understandings and representations, whether oral or written, relating to such Transactions are merged into and superseded by this Contract. The Base Contract may be amended only by a writing executed by both parties.

14.5 This Contract shall be governed by, construed and enforced in accordance with the applicable laws of the jurisdiction selected on the Cover Sheet, excluding however, any conflict of laws rule which would apply the law of another jurisdiction, and the parties agree to surrender and attorn to the non-exclusive jurisdiction of the courts of the jurisdiction specified on the Cover Sheet for the resolution of any disputes arising under or in connection with this Contract.

14.6 This Contract and all provisions in this Contract will be subject to all applicable and valid statutes, rules, orders and regulations of any Federal, State, Province, or local governmental authority having jurisdiction over the parties, their facilities, Gas supply, or this Contract.

14.7 There is no third party beneficiary to this Contract.

14.8 Each party to this Contract represents and warrants that it has full and complete authority to enter into and perform this Contract. Each party represents and warrants that each person who executes this Contract on behalf of such party has the full and complete authority to do so.

14.9 The headings and subheadings contained in this Contract are used solely for convenience and do not constitute a part of this Contract between the parties and shall not be used to construe or interpret the provisions of this Contract.

14.10.a Neither party shall disclose directly or indirectly without the prior written consent of the other party, the terms of any Transaction, this Contract, or any information obtained pursuant to Section 7.8, to a third party (other than the Affiliates, employees, lenders, credit rating agencies, royalty owners, counsel, accountants and other agents or advisers 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 have a need to know and shall have agreed to keep such information 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 under this Contract) and use reasonable efforts to prevent or limit the disclosure. The existence of this Contract is not subject to this confidentiality obligation. In accordance with and subject to Section 13.1, the parties shall be entitled to all remedies available to them at law or in equity, including, without limitation, injunctive remedies, to enforce, or to seek relief in connection with, this confidentiality obligation. The confidentiality obligation set forth in this Section 14.10.a shall remain in full force and effect until the later of: (A) one year following termination of this Contract; or (B) two years following receipt of information obtained pursuant to Section 7.8.

14.10.b In the event that disclosure is required in order to comply with any applicable law, order, regulation, or exchange rule, the party subject to such requirement may disclose the relevant information to the extent so required, but shall promptly notify the other party, prior to disclosure, and shall cooperate (consistent with the disclosing party's legal obligations) with the other party's efforts to obtain protective orders or similar restraints with respect to such disclosure at the expense of the other party.

14.11 It is the intention of the parties that this Contract, and any guarantee of a party's liabilities under this Contract, shall each constitute an "eligible financial contract" within the meaning of the Bankruptcy and Insolvency Act (Canada), the Companies' Creditors Arrangement Act (Canada), the Winding-Up and Restructuring Act (Canada), and other Canadian insolvency legislation, and in that regard, each party represents and warrants to the other party (and such representation and warranty shall be deemed to be repeated at the time each Transaction is entered into) that: (i) its business consists, in whole or in part, of entering into "eligible financial contracts" for the purposes of managing its financial risk arising out of commodity price fluctuations; and (ii) it is entering into each Transaction in connection with the management of its financial risk arising out of commodity price fluctuations. To the extent that this Contract is, or the parties are, subject to the application of the United States Bankruptcy Code, it is the intention of the parties that this Contract shall constitute a "forward contract", and in that regard, each party represents and warrants to the other party (and such representation and warranty shall be deemed to be repeated at the time each Transaction is entered into) that it is a "forward contract merchant", in each case, within the meaning of that legislation.

14.12 For currency conversions required under this Contract, to convert Canadian or United States currency to the other, the parties shall use the average of the Bank of Canada posted noon spot exchange rates as quoted for each Day during the Month during which Gas was, or was obligated to be, delivered and received.

14.13 Each party irrevocably waives its respective right to any jury trial with respect to any litigation arising under or in connection with this Contract.

14.14 The United Nations Convention on Contracts for International Sale of Goods is specifically excluded from application to this Contract.

**DISCLAIMER:** The purposes of this Contract are to facilitate trade, avoid misunderstandings, and make more definite, the terms of contracts for sale, purchase or exchange of natural gas. GasEDI does not mandate the use of this Contract by any party. GasEDI DISCLAIMS AND EXCLUDES, AND ANY USER OF THIS CONTRACT ACKNOWLEDGES AND AGREES TO GasEDI'S DISCLAIMER OF, ANY AND ALL WARRANTIES, CONDITIONS OR REPRESENTATIONS, EXPRESS OR IMPLIED, ORAL OR WRITTEN, WITH RESPECT TO THIS CONTRACT OR ANY PART OF THIS CONTRACT, INCLUDING, WITHOUT LIMITATION, ANY AND ALL IMPLIED WARRANTIES OR CONDITIONS OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY, OR FITNESS OR SUITABILITY FOR ANY PARTICULAR PURPOSE (WHETHER OR NOT GasEDI KNOWS, HAS REASON TO KNOW, HAS BEEN ADVISED, OR IS OTHERWISE IN FACT AWARE OF ANY SUCH PURPOSE), WHETHER ALLEGED TO ARISE BY LAW, BY REASON OF CUSTOM OR USAGE IN THE TRADE, OR BY COURSE OF DEALING. EACH USER OF THIS CONTRACT ALSO AGREES THAT UNDER NO CIRCUMSTANCES WILL GasEDI BE LIABLE FOR ANY DIRECT, SPECIAL, INCIDENTAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES ARISING OUT OF ANY USE OF THIS CONTRACT.

**Appendix B**

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**COMPARISON TABLE**

**APPENDIX B**

## COMPARISON OF 2000 GASEDI GT&amp;CS; 2005 GASEDI GT&amp;CS; AND FEI STANDARD PROVISIONS



**Comparison of 2000 Gas EDI General Terms and Conditions ("2000 Agreement"); and 2005 Gas EDI General Terms and Conditions ("2005 Agreement"); and FortisBC Energy Inc. Standard Provisions ("Standard Provisions")**

Section	2000 Agreement	2005 Agreement	Standard Provisions
<b>Section 1 – Purpose and Procedures</b>			
1.2.a	Confirming Party is required to confirm a Transaction by sending the other party a Transaction Confirmation by close of the next Business Day.	Confirming Party is only required to send a Transaction Confirmation where the Transaction requires written confirmation pursuant to the selection made on the Cover Sheet. Confirming Party has until close of the 3 <sup>rd</sup> Business Day following the Day on which the Transaction is effected to send the Transaction Confirmation.	N/A
1.2.b	The 2000 Agreement and 2005 Agreement contain largely similar provisions, but the 2005 Agreement includes some additional language.	If the Transaction Confirmation contains any provisions other than those relating to commercial terms of the Transaction, which modify and supplement the Base Contract, such provisions shall not be deemed accepted unless expressly agreed to in writing by both parties (provided that the foregoing does not invalidate any Transaction).	N/A
1.2.c	If Confirming Party does not send a Transaction Confirmation, the other party <u>shall</u> notify Confirming Party by sending its own Transaction Confirmation.	Where a Transaction Confirmation is required and the Confirming Party does not send one, the other party <u>may</u> notify Confirming Party by sending its own Transaction Confirmation.  If the other party doesn't receive a Transaction Confirmation from Confirming Party by the deadline set out in Section 1.2.a and the other party does not send its own Transaction Confirmation under Section 1.2.c, the absence of a Transaction Confirmation in respect of a particular Transaction does not negate the existence of such Transaction.	N/A
1.2.d	In the event of a conflict, the terms govern in the following priority: (i) an effective Transaction Confirmation,	In the event of a conflict, the terms govern in the following priority: (i) an effective Transaction Confirmation, (ii) a Transaction	N/A

## APPENDIX B

### COMPARISON OF 2000 GASEDI GT&CS; 2005 GASEDI GT&CS; AND FEI STANDARD PROVISIONS



Section	2000 Agreement	2005 Agreement	Standard Provisions
	(ii) the oral or electronic agreement of the parties, (iii) the Base Contract, and (iv) the General Terms and Conditions.	entered into by the parties either orally or electronically, (iii) the Credit Annex, if any; (iv) the Special Provisions, if any; and (v) the balance of the Base Contract [which includes <i>inter alia</i> the General Terms and Conditions and Cover Sheet].	
<b>Section 2 - Definitions</b>			
2	Both the 2000 Agreement and 2005 Agreement contain identical provisions defining “Gas” as “any mixture of hydro carbons and non-combustible gases in a gaseous state consisting primarily of methane.”		Replace the definition of “Gas” with the following in Section 2: “Gas” shall mean any mixture of hydrocarbons and non-combustible gases in a gaseous state consisting primarily of methane, including biomethane.” <b>This Standard Provision remains applicable.</b>
<b>Section 3 - Performance Obligation</b>			
3.1	Both the 2000 Agreement and the 2005 Agreement contain the same provision.		Insert the following additional sentence at the end of Section 3.1: “All Transactions shall be deemed to be Firm unless expressly identified as EFP or Interruptible.” <b>This Standard Provision remains applicable.</b>
3.2	This Section allows the parties to select either the “Cover Standard” or “Spot Price Standard” as the sole and exclusive remedy of the Performing Party for the breach of a Firm obligation by the Non-Performing Party. The determination of the Cover Standard amount and Spot Price amount are essentially the same as between the 2000 Agreement and 2005 Agreement, other than the introduction of an “Uncovered Gas” concept in determining the Cover Standard. If Buyer or Seller has used commercially reasonable efforts to purchase or sell Gas from or to a third party and has been unable to complete such transaction (“ <b>Uncovered Gas</b> ”), the price paid by Buyer/received by Seller using the Cover Standard for such Uncovered Gas is deemed to be the Spot Price.		Insert the following additional sentence at the end of Section 3.2: “In addition to the above amount, the party in breach shall reimburse the other party for all reasonable transportation costs incurred as a result of the breach by Seller or Buyer on the applicable Day(s).” <b>This Standard Provision remains applicable.</b>

**APPENDIX B**

## COMPARISON OF 2000 GASEDI GT&amp;CS; 2005 GASEDI GT&amp;CS; AND FEI STANDARD PROVISIONS



Section	2000 Agreement	2005 Agreement	Standard Provisions
3.3	This provision is not included in the 2000 Agreement.	<p>This Section allows the parties to select whether a Termination Right does or does not apply to a Transaction.</p> <p>If the parties elect to have a Termination Right apply to a Transaction, the Performing Party shall have the right to terminate, accelerate and liquidate an Affected Transaction on Notice to the Non-Performing Party by designating an Early Termination Date between 1 and 5 Business Days following the most recent Non-Performance causing the Affected Transaction.</p> <p>An “Affected Transaction” is a Firm Transaction with a Delivery Period of at least 30 Days in respect of which there has occurred a number of Failure Days that is equal to the greater of 4 Days and 5% of the number of Days in the Delivery Period.</p> <p>A “Failure Day” is a Day on which the Non-Performing Party has failed to purchase and receive, or sell and deliver, as applicable, the greater of 500 GJs (500 MMBtus) and 4% of the Contract Quantity to be purchased and received or sold and delivered on such Day, which failure is not excused because of the Non-Performance of the Performing Party or by Force Majeure.</p> <p>Upon the exercise of a Termination Right, the Performing Party will calculate the Termination Payment for the Affected Transaction, but the exercise of such Termination Right shall not be deemed an Event of Default with respect to the Affected Transaction or any other Transactions.</p> <p>If the Performing Party fails to provide its Notice exercising the Termination Right within</p>	N/A

## APPENDIX B

### COMPARISON OF 2000 GASEDI GT&CS; 2005 GASEDI GT&CS; AND FEI STANDARD PROVISIONS



Section	2000 Agreement	2005 Agreement	Standard Provisions
		the 5 Business Day period, the Termination Right shall expire without affecting any future Termination Right.	
<b>Section 4 – Transportation, Nominations and Imbalances</b>			
4.3	If Imbalance Charges were incurred as a result of a party's actions or inactions, then such party shall pay for such Imbalance Charges or reimburse the other party for them.	Imbalance Charges are payable by the party causing them.  A party is deemed to have caused Imbalance Charges if it had sufficient ability to avoid any Imbalance Charges through a revision of the nomination with the Transporter during the Nomination Change Period.  "Nomination Change Period" means a reasonable period of time to change a nomination, taking into account the Transporter's nomination deadline(s) after receipt of an operational notice pursuant to Section 4.2 (Nominations) or a notification pursuant to Section 11.5 (Force Majeure).	N/A
<b>Section 6 - Taxes</b>			
6.2	The 2000 Agreement and 2005 Agreement contain largely similar provisions, but the 2005 Agreement includes some additional language.	References to harmonized sales tax, provincial sales tax and input tax credits have been added in the 2005 Agreement.	N/A
6.3.a 6.3.b	Where Buyer is not registered for GST and <u>indicates</u> to Seller that Gas will be exported from Canada, Buyer may request that Seller treat such Gas as "zero-rated" for export.  Where Buyer is registered for GST and <u>indicates</u> to Seller that Gas will be exported from Canada, Buyer may request that Seller treat such Gas as "zero-rated" for export.	Where Buyer is not registered for GST and <u>provides a written undertaking</u> to Seller that Gas will be exported from Canada, Buyer may request that Seller treat such Gas as "zero-rated" for export.  Where Buyer is registered for GST and <u>provides Seller with a declaration in writing</u> that Buyer intends to export Gas from Canada, such Gas shall be "zero-rated" unless Seller knows or has reason to believe otherwise.	N/A

## APPENDIX B

### COMPARISON OF 2000 GASEDI GT&CS; 2005 GASEDI GT&CS; AND FEI STANDARD PROVISIONS



Section	2000 Agreement	2005 Agreement	Standard Provisions
6.4	This provision is not included in the 2000 Agreement.	Where Gas is imported into Canada, the person for whose account the Canadian Transporter receives custody from the American Transporter acts as importer for the purposes of the <i>Customs Act</i> (Canada) and shall pay any GST or duties owing.	N/A
<b>Section 7 – Billing/Invoicing, Payment and Audit</b>			
7.1	Seller shall invoice Buyer for Gas delivered and received in the preceding Month and any other applicable charges.	Seller shall invoice Buyer on or before the 15 <sup>th</sup> day of each Month for Gas delivered and receiving in the preceding Month and any other amounts payable under the Contract including, without limitation, Imbalance Charges.	Insert the following at the beginning of the first sentence in Section 7.1: “On or before the 15th Day of each Month” <b>This is standard language in the 2005 Agreement and therefore is no longer required as a Standard Provision.</b>
7.2	Buyer shall remit on the Closest Business Day to Payment Date, provided that if the Payment Date is not a Business Day, payment is due on the next Business Day.	Under Section 7.2, a Parties shall select either “Closest Business Day to Payment Date” or “Next Business Day following Payment Date” on the Cover Sheet. If the parties select Closest Business Day to Payment Date and the Payment Date falls on a Sunday or Monday which is not a Business Day, payment is due on the next following Business Day; if the Payment Date falls on a Saturday, or a weekday other than a Monday which is not a Business Day, payment is due on the immediately preceding Business Day. If the parties select Next Business Day following Payment Date and the Payment Date is not a Business Day, payment is due on the next following Business Day. Payments related to a disputed invoice shall be made within 3 Business Days following resolution.  Under Section 7.2.b, if Buyer disputes an invoice in good faith, Buyer must pay the	Change Section 7.2 “...payment is due on the next Business Day” to “...payment is due on the preceding Business Day”. <b>The 2005 Agreement provides for payment to be made on the preceding Business Day where the parties select “Closest Business Day to Payment Date” and addresses if the Payment Date falls on a Saturday or a weekday other than a Monday which is not a Business Day. This is the default language in the 2005 Agreement and can only be modified by mutually agreed selection in the Cover Sheet. For these reasons this Standard Provision is no longer required.</b> Insert the following additional sentence at the end of Section 7.2: “Upon resolution of the billing dispute, any underpayments or overpayments shall be paid or refunded with accrued interest at the rate specified in Section 7.4 for the period until such

**APPENDIX B**

## COMPARISON OF 2000 GASEDI GT&amp;Cs; 2005 GASEDI GT&amp;Cs; AND FEI STANDARD PROVISIONS



Section	2000 Agreement	2005 Agreement	Standard Provisions
		amount to Seller than it concedes as correct and provide, by the Payment Date, supporting documentation acceptable in industry practice to support the amount paid or disputed. Within 3 Business Days following resolution of such dispute, any underpayments or overpayments shall be paid or refunded with accrued interest at the Interest Rate from the date of underpayment or overpayment until paid.	underpayments or overpayments are made." <b>Given the addition of Section 7.2.b in the 2005 Agreement, this Standard Provision is no longer required.</b>
7.7	The 2000 Agreement and 2005 Agreement contain a largely similar provision, but the 2005 Agreement includes some additional language.	Where a dispute is resolved in favour of the Non-Performing Party, the Performing Party shall pay interest at the Interest Rate for the period from the date of dispute until the disputed amounts are paid in full.	N/A
<b>Section 9 - Notices</b>			
9.3	Notice shall be given when received on a Business Day by the addressee. In the absence of actual proof of receipt, Notices sent electronically or by facsimile are deemed received upon the sending party's receipt of confirmation of a successful transmission, provided it is received before 5:00 pm on a Business Day. Otherwise, such Notice is deemed made on the next following Business Day. A Notice sent by overnight mail or courier are deemed received on the next Business Day after it was sent or such earlier time as is confirmed by the receiving party.	Notice shall be deemed made on the day of delivery, if delivered personally or by courier, or on the day sent by facsimile or mutually agreeable electronic means, provided that in all such cases it is before 5:00 pm a Business Day. Otherwise, Notices is deemed made on the next following Business Day.	N/A

## APPENDIX B

### COMPARISON OF 2000 GASEDI GT&CS; 2005 GASEDI GT&CS; AND FEI STANDARD PROVISIONS



Section	2000 Agreement	2005 Agreement	Standard Provisions
<b>Section 10 – Financial Responsibility, Defaults and Remedies</b>			
10.1	Performance Assurance required to be paid under Section 10.1 must be paid by the end of the 5 <sup>th</sup> Business Day after the demand is received. The Performance Assurance shall not exceed the amount calculated in accordance with the procedure for determining the Total Termination Payment, as of the date of the demand, as if all Transactions had been terminated, plus all other outstanding amounts under the Contract.	If a demand for Performance Assurance is received: (a) by 12:00 noon, it must be provided by the end of the next Business Day; and (b) after 12:00 noon, it must be provided by the end of the 2nd Business Day after the demand is received.  If an Early Termination Date has been designated, the Defaulting Party may not demand Performance Assurance.  A party demanding Performance Assurance may withhold amounts owed to the other party until it is provided and may set-off amounts owing.	Insert the following clause as Section 10.1A after Section 10.1: “For purposes of this Contract, “reasonable grounds for insecurity regarding the payment performance, or enforceability of any obligation under the Contract” with respect to a party shall mean the downgrading of any unsecured, long-term, senior debt of such party or any entity providing a guarantee or other form of credit support for the obligations of such party, such that debt is rated below “BBB (low)” by Dominion Bond Rating Services (“ <b>DBRS</b> ”), “BBB-” by Standard & Poor’s, or “Baa3” by Moody’s Investors Service, Inc.”  <b>This Standard Provision remains applicable.</b>
10.2	The 2000 Agreement and 2005 Agreement contain a largely similar provision, but the 2005 Agreement includes some additional language.	If a party (“ <b>Payer</b> ”) does not pay an amount owing to the other party (“ <b>Payee</b> ”), Payee may: (a) suspend its performance of all Transactions; (b) withhold any amounts owing to Payer; and (c) set-off against such withheld amounts any amounts owed to Payer.  If Payee suspends its performance, it is entitled to damages (calculated under Section 3.2) during the period of suspension and Payer shall be deemed to have caused any Imbalance Charges that accrue during the period of suspension.	N/A
10.2/10.3 (2000) 10.3 (2005)	This Section Applies to both an Event of Default and a Potential Event of Default. The Non-Defaulting Party has the right to: (i) upon 1 Business Day’s Notice, suspend its performance; (ii) withhold any	The concept of “Potential Event of Default” has been removed in the 2005 Agreement and the remedies in Section 10.3 now apply only to actual Events of Default.	Insert the following additional sentence at the end of Section 10.3: “The failure to give such notice contemplated shall not affect the validity or enforceability of the liquidation or give rise to any claim by the

## APPENDIX B

### COMPARISON OF 2000 GASEDI GT&Cs; 2005 GASEDI GT&Cs; AND FEI STANDARD PROVISIONS



Section	2000 Agreement	2005 Agreement	Standard Provisions
	amounts owed to the Defaulting Party and setoff such amounts; and (iii) for so long as the Event of Default is continuing, terminate, accelerate and liquidate all Transactions then outstanding or not yet commenced by providing Notice to the Defaulting Party designation an Early Termination Date between 1 and 20 Business Days following the Event of Default.	If the Non-Defaulting Party suspends its performance under Section 10.3: (a) the Defaulting Party shall be deemed to have caused any Imbalance Charges that accrue during the period of suspension; and (b) if the Defaulting Party remedies the Event of Default prior to the designation of an Early Termination Date; or (c) the Defaulting Party does not remedy the Event of Default and an Early Termination Date is not designated by the Non-Defaulting Party, the parties shall promptly resume performance of the Contract.	Defaulting Party against the Non-Defaulting Party.” <b>The language in Section 10.1a of the 2005 Agreement continues to support the foreseeability of an “Event of Default”, thus, removal of the concept of “Potential Event of Default” does not substantively alter the function of this section.</b> <b>This Standard Provision remains applicable.</b>
10.4	The Non-Defaulting Party may net the Total Termination Payment against all other amounts owing (whether or not yet due) between the parties under the Contract and any other agreements between the parties. This amount constitutes the "Liquidation Amount" payable by the Defaulting Party within 2 Business Days or payable by the Non-Defaulting Party on the 25th of the Month following the Early Termination Date, as applicable. A disputed amount shall be paid by the Defaulting Party, subject to refund.	As of the Early Termination Date, the Non-Defaulting Party shall determine: (a) the amounts owed by each party under all terminated Transactions; (b) all other amounts owing by each party under the Contract; and (c) the Termination Payment owing, and the Net Settlement Amount shall be determined by aggregating or netting, as applicable, the total of such amounts.  The definition of “Market Value” has been split into two separate definitions of “Market Value” and “Market Price” in the 2005 Agreement. The definitions are largely the same, except that the following has been added into the definition of “Market Price”: “If such quotations are not readily available, or the quotations will not reflect comprehensive treatment of the pricing structure for Transactions terminated pursuant to Section 10.3(iii), as determined in the reasonable discretion of the Non-Defaulting Party, the Non-Defaulting Party shall determine the Market Price by considering any or all of the following: (A) the settlement prices of New York Mercantile Exchange Gas Futures	N/A

**APPENDIX B**

## COMPARISON OF 2000 GASEDI GT&amp;CS; 2005 GASEDI GT&amp;CS; AND FEI STANDARD PROVISIONS



Section	2000 Agreement	2005 Agreement	Standard Provisions
		<p>Contracts; (B) similar sales or purchases of Gas; or (C) information available to it internally, including, without limitation, information on relevant rates, prices, yields, yield curves, volatilities, spreads and other relevant market data, provided that such information is of the same type used by the Non-Defaulting Party in the regular course of its business for the valuation of similar transactions, all adjusted to consider the remaining Delivery Period, remaining Contract Quantities, Delivery Point and differences in transportation costs. A party shall not be required to enter into a replacement transaction in order to determine the Market Price. Any extension(s) of the Delivery Period of a Transaction to which the parties are not bound as of the Early Termination Date (including, without limitation, “evergreen provisions”) shall not be considered in determining the Market Price. For the avoidance of doubt, the value of any option pursuant to which one party has the right to extend the Delivery Period of a Transaction shall be included in determining the Market Price.”</p> <p>The definition of “Market Value”, which is used in the calculation to determine the amount of the Termination Payment, has been changed in the 2005 Agreement to mean the net present value (applying the Present Value Discount Rate) of the product of: (a) the quantity of Gas remaining under a Transaction pursuant to which the parties are obligated to transact, multiplied by (b) the Market Price for a similar Transaction taking into consideration the nature of the obligation and the remaining</p>	

**APPENDIX B**

## COMPARISON OF 2000 GASEDI GT&amp;CS; 2005 GASEDI GT&amp;CS; AND FEI STANDARD PROVISIONS



Section	2000 Agreement	2005 Agreement	Standard Provisions
		<p>Delivery Period, remaining Contract Quantities and Delivery Point.</p> <p>The Non-Defaulting Party may net or set-off against any Net Settlement Amount owing by it against any other amounts owing by it to the Defaulting Party under any other agreement between them (such resulting amount being the "Final Liquidation Amount"). If any part of the Final Liquidation Amount is unascertained, it may be estimated and subject to adjustment once ascertained. Interest will accrue on any underpayments/overpayments from the date of the underpayment/overpayment until paid.</p> <p>If the parties have executed a separate netting agreement, the terms of that agreement shall prevail to the extent they are inconsistent with Section 10.4.</p> <p>Upon designation of the Early Termination Date, the Non-Defaulting Party may: (a) exercise any of the rights and remedies of a secured party with respect to all Performance Assurances or other credit support then available to the Non-Defaulting Party; and/or (b) draw on any outstanding letter of credit issued for the Non-Defaulting Party's benefit, subject in each case to the Credit Annex, if any, and the Non-Defaulting Party's obligation to return any surplus proceeds remaining after such obligation are satisfied in full.</p>	
10.6	Each party reserves to itself all rights, set-offs, counterclaims and other defences which it is or may be entitled to arising from the Contract.	Equivalent provision at Section 13.1.g.	Insert the following additional sentence at the end of Section 10.6: "The Non-Defaulting Party's rights under this Contract are in addition to and not in limitation or exclusion of any other rights the Non-Defaulting Party may have

## APPENDIX B

### COMPARISON OF 2000 GASEDI GT&CS; 2005 GASEDI GT&CS; AND FEI STANDARD PROVISIONS



Section	2000 Agreement	2005 Agreement	Standard Provisions
			(whether by contract, operation of law, or otherwise)." <b>This Standard Provision remains applicable, and should be added at the end of Section 13.1g.</b>
<b>Section 11 - Force Majeure</b>			
11.2	The 2000 Agreement only contains Option A as a definition for Force Majeure.	<p>The parties must select either Option A or Option B definition of "Force Majeure". Option A is largely similar to the definition of Force Majeure in the 2000 Agreement, except from some minor language changes including the addition of "any event not reasonably within the control of the Claiming Party which event prevents or restricts delivery by Seller or receipt by Buyer, as applicable, of Gas pursuant to a Transaction". Option A will apply where the Delivery Point is neither NIT nor a Liquid Delivery Point.</p> <p>Option B is an entirely new provision and provides different definitions of Force Majeure where the Delivery Point is NIT, a Liquid Delivery Point, or the Delivery Point is other than NIT or a Liquid Delivery Point (in which case "Force Majeure" has the meaning set forth in Option A).</p>	Delete Sections 11.2, 11.3 and 11.4 and replace with the following: "11.2 The parties intend that the term "Force Majeure" shall be restricted to mean an event or circumstance which directly prevents or restricts one party from performing its obligations at a Delivery Point specified under one or more Transactions, which event or circumstances was not anticipated as of the date the Transaction was agreed to, which is not within the reasonable control of the party providing notification of the Force Majeure to the other party, and which, by the exercise of due diligence, the party providing notification of the Force Majeure to the other party is unable to overcome or avoid or cause to be avoided. For greater certainty, if the Delivery Point is:
11.3	The party claiming Force Majeure shall not be excused from its responsibility for Imbalance Charges.	<p>Section 11.3 applies only if the parties selected Option A, or if they selected Option B and the Delivery Point is other than NIT or a Liquid Delivery Point.</p> <p>The following are excluded as circumstances pursuant to which a party may claim Force Majeure: (i) lack of finances; (ii) Seller's ability to sell Gas at a more advantageous price than the Contract Price; (iii) Buyer's ability to purchase Gas at a more advantageous price</p>	<p>11.2.a NIT, or other similar inventory transfer account, "Force Majeure" is restricted to mean an interruption, curtailment or pro-rationing by a Transporter of firm inventory transfer service, which affects all shippers who had nominated for firm deliveries or firm receipts to take place by inventory transfer on that Day. On any Day or any portion of</p>

**APPENDIX B**

## COMPARISON OF 2000 GASEDI GT&amp;Cs; 2005 GASEDI GT&amp;Cs; AND FEI STANDARD PROVISIONS



Section	2000 Agreement	2005 Agreement	Standard Provisions
		than the Contract Price; (iv) a regulatory agency disallowing pass-through costs; and (v) scheduled maintenance by a Transporter or storage operator if notice of such was provided prior to the entering into of the subject Transaction.	a Day that there is a Force Majeure, Seller shall deliver to Buyer, and Buyer shall receive from Seller, that percentage of the Contract Quantity which is equal to the percentage amount of Gas which according to the Transporter, had been nominated by all inventory transfer shippers and which the Transporter is not interrupting, curtailing or pro-rationing on the Day or that portion of a Day without regard to price;
11.4	The settlement of strikes, lockouts or other industrial disturbances are entirely within the sole discretion of the party experiencing such disturbance.	Claiming Party must use commercially reasonable efforts to: avoid adverse impacts of Force Majeure; and resolve the event once it has occurred; provided that nothing shall require: (i) settlement of strikes and other labour and industrial disturbances except in the sole discretion of the party experiencing the disturbance, (ii) the extension of the Delivery Period; (iii) the parties to make up any quantity of Gas that they would otherwise have been obligated to sell and purchase during the Force Majeure period; (iv) to deliver or receive the Gas at any point other than the Delivery Point; or (v) Seller to purchase replacement Gas at a price greater than the Contract Price.	11.2.b Located at a producer's, processor's, distributor's or consumer's plant gate or a specified location on the gathering system for production from the wells in a particular geographic area, "Force Majeure" includes: (i) physical events such as acts of God, landslides, lightning, earthquakes, fires, storms or storm warnings that result in evacuation of the affected area, floods, washouts, explosions, breakage of or accident or necessity of repairs to machinery or equipment or lines of pipes; (ii) weather related events affecting an entire geographic region, such as low temperatures which cause freezing or failure of wells or lines of pipe; (iii) interruption of firm transportation and/or storage by Transporters; (iv) acts of others such as strikes, lockouts or other industrial disturbances, riots, sabotage, terrorist acts, insurrections or wars; and (v) governmental actions such as necessity for compliance with any court order, law, statute, ordinance, or regulation

## APPENDIX B

### COMPARISON OF 2000 GASEDI GT&CS; 2005 GASEDI GT&CS; AND FEI STANDARD PROVISIONS



Section	2000 Agreement	2005 Agreement	Standard Provisions
			<p>promulgated by a governmental authority having jurisdiction; and</p> <p>11.2.c A Delivery Point other than 11.2.a or 11.2.b, “Force Majeure” is restricted to mean (i) a curtailment or interruption by a Transporter of firm service at the Delivery Point, regardless of the reasons therefore, or (ii) any governmental actions such as the requirement to comply with any court order or any law, statute, regulation or authorization of a governmental authority having jurisdiction.”</p> <p><b>These Standard Provisions remain applicable, however the introduction should read “Delete Sections 11.2 and 11.3” (rather than Sections 11.2, 11.3 and 11.4).</b></p>
11.5	The 2000 Agreement and 2005 Agreement contain largely similar provisions, but the 2005 Agreement includes some additional language.	<p>Notice of Force Majeure is deemed effective at the onset of the occurrence of the Force Majeure.</p> <p>For the purposes of Section 4.3, in the event of Force Majeure, Claiming Party is deemed to have caused any Imbalance Charges arising from the interruption or curtailment of Firm deliveries or receipt due to the Force Majeure.</p>	N/A
11.6	This provision is not included in the 2000 Agreement.	If Force Majeure only partially affects the Claiming Party's ability to perform its obligations at a Delivery Point, the Claiming Party shall curtail its interruptible obligations at such Delivery Point to the extent required to meet its Firm obligations. If after such curtailment, it is still unable to meet its Firm obligations, then it may to the extent permitted by the applicable Transporter(s), reduce its Firm obligations by the same percentage that all of its other firm obligations at the Delivery	N/A

**APPENDIX B**

## COMPARISON OF 2000 GASEDI GT&amp;Cs; 2005 GASEDI GT&amp;Cs; AND FEI STANDARD PROVISIONS



Section	2000 Agreement	2005 Agreement	Standard Provisions
		Point are reduced, without regard to the price paid under any transaction between Claiming Party and the other firm customers or suppliers of Claiming Party.	
<b>Section 12 - Term</b>			
12.1	The Contract can be terminated on 30 days' Notice. The rights of either party pursuant to Section 7.8, the obligations to make payments and the indemnification obligations survive the termination.	The Contract can be terminated by <u>either party</u> upon 30 days' Notice. In addition to the rights and obligations listed in the 2000 Agreement as surviving termination, Section 14.10 [Confidentiality] also survives termination.	N/A
<b>Section 13 - Limitations</b>			
14.1 (2000) 13.1 (2005)	The content of this provision largely remains the same in the 2005 Agreement, but the wording and structure of the provision has been revised.	Section 13 has been moved and split into subsections, but remains largely the same as in the 2000 Agreement, other than the following additions: <ul style="list-style-type: none"> <li>- Nothing limits the right of a party to recover or enforce a right to damages permitted by the Contract; and</li> <li>- Each party reserves all rights remedies, set-offs, counterclaims and defenses available at law or in equity with respect to the subject matter of the Contract.</li> </ul>	N/A
<b>Section 14 - Miscellaneous</b>			
13.1 (2000) 14.1 (2005)	Upon any assignment, the assignor shall not be relieved of nor discharged from any obligations under the Contract.	A party may transfer, sell, pledge, encumber, or assign the Contract, accounts, revenues or proceeds of the Contract in connection with a financing or other financial arrangement without prior approval of the other party.  Upon any assignment, the assignor remains principally liable for the obligations under the Contract and shall not be relieved of nor discharged from any obligations under the	N/A

## APPENDIX B

### COMPARISON OF 2000 GASEDI GT&CS; 2005 GASEDI GT&CS; AND FEI STANDARD PROVISIONS



Section	2000 Agreement	2005 Agreement	Standard Provisions
		Contract without the written consent of the non-assigning party.	
13.3 (2000) 14.3 (2005)	This provision is not included in the 2000 Agreement.	Waiver of any breach of the Contract is only effective if it is in writing.	N/A
13.5 (2000) 14.5 (2005)	The 2000 Agreement and 2005 Agreement use slightly different language, but both essentially provide that the Contract is governed by the jurisdiction selected on the Cover Sheet/the Base Contract, excluding any conflict of law rules which would apply the law of another jurisdiction.		Replace Section 13.5 with the following: “The interpretation and performance of this Contract shall be governed by the laws of the Province of British Columbia, excluding, however, any conflict of laws rule which would apply the law of another jurisdiction.” <b>This Standard Provision remains applicable, and should be inserted into Section 14.5 [Miscellaneous].</b>
13.6 (2000) 14.6 (2005)	The 2000 Agreement and 2005 Agreement contain the same provisions, which state that the Contract and all provisions are subject to all valid statutes, rules, order, regulations, etc. of a government authority having jurisdiction over the parties, their facilities, or Gas supply, or the Contract.		Replace Section 13.6 with the following: “This Contract and all provisions herein will be subject to all applicable and valid statutes, rules, orders and regulations of any Federal, Provincial, State, or local governmental authority having jurisdiction over the parties, their facilities, or Gas supply, this Contract or Transaction Confirmation or any provisions thereof.” <b>This Standard Provision remains applicable, and should be inserted into Section 14.6 [Miscellaneous].</b>
13.9 (2000) 14.12 (2005)	The 2000 Agreement and 2005 Agreement contain the same provisions, which state that, when converting CAD to USD or <i>vice versa</i> , the parties shall use the average of the Bank of Canada posted noon spot exchange rates as quoted for each Day during the Month during which Gas was, or was obligated to be, delivered and received.		Replace Section 13.9 with the following: “For currency conversions required under the Contract, to convert Canadian or United States currency to the other, the parties shall use the average of the Bank of Canada Daily Average Exchange Rates posted by 16:30 Eastern Time, as quoted

## APPENDIX B

### COMPARISON OF 2000 GASEDI GT&CS; 2005 GASEDI GT&CS; AND FEI STANDARD PROVISIONS



Section	2000 Agreement	2005 Agreement	Standard Provisions
			for each Day during the Month during which Gas was, or was obligated to be, delivered and received.” <b>This Standard Provision remains applicable, and should be inserted into Section 14.12 [Miscellaneous].</b>
13.10 (2000)	Any controversy or claim arising out of or relating to the Contract shall be determined by arbitration in accordance with the international Arbitration Rules of the American Arbitration Association.	This provision is not included in the 2005 Agreement. As such, unless the parties otherwise agree, there is no obligation for disputes to be addressed via arbitration.	Replace Section 13.10 with the following: “Any controversy or claim arising out of or relating to the Contract, or the breach thereof, shall be determined by arbitration in accordance with the Domestic Commercial Arbitration Rules of Procedure of the British Columbia International Commercial Arbitration Centre in Vancouver, British Columbia. The place of arbitration shall be Vancouver, British Columbia, Canada. The number of arbitrators shall be one. The language of the arbitration shall be English.” <b>This Standard Provision remains applicable, and should be inserted into Section 14.13[Miscellaneous].</b>
14.10 (2005)	This provision is not included in the 2000 Agreement.	The Contract and any information obtained when reviewing books and records of the other party cannot be disclosed until the later of: <ul style="list-style-type: none"> <li>- 1 year after the termination of the Contract; or</li> <li>- 2 years following receipt of information obtained when reviewing books and records of the other party.</li> </ul> There are a number of typical exceptions to the confidentiality obligations and the existence of the Contract itself is not subject to confidentiality obligations.	Insert the following as Section 13.11: “The terms of this Contract, including but not limited to the Contract price, the Transporter(s), and cost of transportation, and the quantity of Gas purchased or sold, shall be kept confidential by the parties, except as required (i) in order to comply with any applicable law, order, or regulatory requirement, or (ii) for the purpose of effectuating transportation of Gas pursuant to this Agreement, or (iii) to the extent such information is delivered to a third party for the sole purpose of evaluation, compilation, establishment or

## APPENDIX B

### COMPARISON OF 2000 GASEDI GT&Cs; 2005 GASEDI GT&Cs; AND FEI STANDARD PROVISIONS



Section	2000 Agreement	2005 Agreement	Standard Provisions
		The provision also contains typical terms allowing the disclosure of information as required by law.	editorial review of various Gas price indices.” <b>The 2005 Agreement contains a confidentiality provision which is more comprehensive and therefore this Standard Provision is no longer required.</b>
14.11 (2005)	This provision is not included in the 2000 Agreement.	<p>The parties intend that the Contract is an “eligible financial contract” (“<b>EFC</b>”) within the meaning of Canadian bankruptcy and insolvency legislation.</p> <p>An EFC is a class of financial agreement that is excluded from the operation of certain aspects of such legislation, including:</p> <ul style="list-style-type: none"> <li>- counterparties are not subject to the general prohibition against netting and set-off obligations in bankruptcy and insolvency proceedings;</li> <li>- EFCs may be terminated or accelerated as a result of a party filing a bankruptcy proposal or commencing CCAA proceedings; and</li> <li>- counterparties may deal with or realize on financial collateral held in respect of an EFC, notwithstanding a general stay of proceedings under the Bankruptcy and Insolvency Act or CCAA.</li> </ul> <p>Whether a contract can be classified as an EFC is a complex issue and a statement to that effect in the Contract is not definitive (nor does a lack of such statement mean that a contract is not an EFC). Ultimately, the determination of whether a contract is an EFC is made by the courts, who look at a number of indicia to determine whether the essence of</p>	<p>At the end of Section 10, insert the following clause as Section 10.7: “The parties agree that this Contract and each Transaction made under this Contract constitutes an “eligible financial contract” under and in all proceedings related to the Bankruptcy and Insolvency Act (Canada), the Companies’ Creditors Arrangement Act (Canada) or the Winding-Up and Restructuring Act (Canada), and the parties intend that this Contract and all Transactions will be treated similarly under any amendments, restatements, replacements or re-enactments of such legislation and under and in all proceedings related to any bankruptcy, insolvency, or similar law (regardless of the jurisdiction of application) or any ruling , order, directive pronouncement made pursuant thereto. The parties also agree that to the extent applicable, this Contract and each Transaction entered into hereunder constitutes a “forward contract” within the meaning of the United States Bankruptcy Code and that Buyer and Seller are each “forward contract merchant” within the meaning of the United States Bankruptcy Code.”</p> <p><b>EFC language is now included in the 2005 Agreement and therefore this</b></p>

**APPENDIX B**

## COMPARISON OF 2000 GASEDI GT&amp;CS; 2005 GASEDI GT&amp;CS; AND FEI STANDARD PROVISIONS



Section	2000 Agreement	2005 Agreement	Standard Provisions
		any contract is to serve an underlying financial purpose.	<b>Standard Provision is no longer required.</b>
14.13 (2005)	This provision is not included in the 2000 Agreement.	The parties irrevocably waive their rights to any jury trial with respect to any litigation arising under the Contract.	N/A
14.14 (2005)	This provision is not included in the 2000 Agreement.	The UN Convention on Contracts for International Sale of Goods (CISG) is specifically excluded from the application of the Contract. CISG automatically applies to international contracts for the sale of commercial goods between Canadian and foreign businesses, in place of the selected governing law, unless excluded.	N/A
N/A	This provision is not included in the 2000 Agreement or the 2005 Agreement		Insert the following as Section 13.12: "Time is of the essence of this Contract and the terms and conditions thereof." <b>This Standard Provision remains applicable, and should be inserted into Section 14.15 [Miscellaneous].</b>
N/A	This provision is not included in the 2000 Agreement or the 2005 Agreement		Insert the following as Section 13.13: "As a result of the June 1, 2015 changes with respect to the Foothills Pipeline gas management system, Foothills Pipeline ("FH") no longer offers a market trading center on the Canadian side of the US/Canada border at Kingsgate. With respect to trades at Kingsgate Foothills or the Huntingdon Delivery Points, currently or at sometime in the future, the parties agree to the following: a. Kingsgate If any Transaction Confirmation specifies Kingsgate GTN as the Delivery Point, the following shall apply:

**APPENDIX B**

## COMPARISON OF 2000 GASEDI GT&amp;CS; 2005 GASEDI GT&amp;CS; AND FEI STANDARD PROVISIONS



Section	2000 Agreement	2005 Agreement	Standard Provisions
			<ul style="list-style-type: none"><li>• The Delivery Point shall be deemed to be on the Canadian side of the border and title to the Gas shall pass from the Seller to the Buyer in Canada;</li><li>• Buyer shall be the exporter of the Gas from Canada at Kingsgate and shall report the export to the Canada Energy Regulator and Buyer shall be the importer of Gas into the US and be responsible for reporting the transaction as in compliance with applicable laws including to the Department of Energy (DOE) and US Customs.</li></ul> <p>b. Huntingdon</p> <p>Consistent with the location of the market centers at Huntingdon in Canada at the time of entering into the Base Contract, the parties acknowledge that if any Transaction Confirmation specifies Huntingdon or FortisBC Huntingdon Inc. as the Delivery Point and the Gas will be exported, the following applies:</p> <ul style="list-style-type: none"><li>• The Delivery Point shall be on the Canadian side of the border.</li><li>• To the extent that Buyer exports the Gas from Canada to the US, Buyer shall be the exporter of the Gas at Huntingdon and shall be the importer of Gas into the US and shall report the transaction as an importer in compliance with all applicable</li></ul>

**APPENDIX B**

## COMPARISON OF 2000 GASEDI GT&amp;CS; 2005 GASEDI GT&amp;CS; AND FEI STANDARD PROVISIONS



Section	2000 Agreement	2005 Agreement	Standard Provisions
			laws including to the Department of Energy (DOE) and US Customs." <b>This Standard Provision remains applicable and should be inserted into Section 14.16 [Miscellaneous].</b>

**Appendix C**

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**BLACKLINED COMPARISON OF 2000 GASEDI BASE  
CONTRACT AND 2005 GASEDI BASE CONTRACT**

GasEDI BASE CONTRACT FOR ~~SHORT-TERM~~ SALE AND PURCHASE OF NATURAL GAS  
COVER SHEET

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Page 1 of ~~24~~  
~~October 26~~August 31, ~~2000~~2005

**GasEDI BASE CONTRACT FOR  
~~SHORT-TERM SALE AND PURCHASE OF NATURAL GAS~~  
COVER SHEET**

~~This~~The Base Contract is entered into as of the following date:

The parties to ~~this~~the Base Contract are the following:

**PARTY A**

**PARTY B**

	<del>Party</del> <b>PARTY</b>	<del>FortisBC Energy Inc.</del>
	Address 1	<del>16705 Fraser Highway</del>
	Address 2	
	City	<del>Surrey</del>
	State / Province	<del>British Columbia</del>
	Zip / Postal Code	<del>V4N 0E8</del>
	Base Contract #	
	Duns #	<del>249953860</del>
	<del>US Federal Tax ID #</del>	
	Canadian GST #	<del>R100431592</del>
	<del>Bank</del> <b>US Federal Tax ID #</b>	<del>The Toronto Dominion Bank</del>
	<del>Branch</del> <b>BANKING INFORMATION</b>	<del>Tower Branch, Vancouver BC</del>
	<del>Account</del>	<del>US\$ Acct #0902-7302-311 Transit #94000</del>
		<del>C\$ Acct #0902-0305-700 Transit #94000</del>
	<b>NOTICES</b>	
	Contact	<del>VP, Energy Supply &amp; Resource Development</del>
	Phone	<del>(604) 592-7837</del>
	Fax	<del>(604) 592-7895</del>
	Email	
	<b>24 HOUR OPERATIONS</b>	
	Contact	<del>Operations — Scheduling / Nominations</del>
	Phone	<del>(604) 592-7799</del>
	Fax	<del>(604) 592-7895</del>
	Email	<del>tradelog@fortisbc.com</del>
	<b>INVOICES &amp; PAYMENTS</b>	
	Contact	<del>Gas Supply Accounting</del>
	Phone	<del>604-592-7869 / 604-592-7861</del>
	Fax	<del>(604) 592-7420</del>
	Email	<del>gasaccounting@fortisbc.com</del>

**GasEDI BASE CONTRACT FOR ~~SHORT-TERM~~ SALE AND PURCHASE OF NATURAL GAS**  
**COVER SHEET**

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Page 2 of ~~24~~  
~~October 26~~August 31, 20002005

~~This~~The Base Contract incorporates by reference for all purposes the General Terms and Conditions of the GasEDI Base Contract for ~~Short-Term~~ Sale and Purchase of Natural Gas as published by GasEDI on August 31, 2005. The parties ~~hereby~~ agree to the following provisions offered in ~~said~~the General Terms and Conditions ~~(select only one from each box, but see "Note" relating to Section 3.2.)~~. In the event the parties fail to check a box, the specified default provision shall apply.

<p>Section <del>4:</del><u>1.2.a: Confirming Party shall</u> Confirm  <del>Deadline</del>  <input checked="" type="checkbox"/> <del>2 Business Days after receipt</del> <u>p All Transactions</u>          (default)  <input type="checkbox"/> <u>All Transactions having a Delivery Period equal to or greater than _____ Business Days after receipt</u></p>	<p>Section <del>66.1:</del> Taxes  <input checked="" type="checkbox"/> <u>p Buyer Pays At and After Delivery Point (default)</u>  <input type="checkbox"/> Seller Pays Before and At Delivery Point</p>
<p>Section <del>12:</del> <u>Confirming Party Confirm Deadline</u>  <u>p 2 Business Days after receipt (default)</u>  <input checked="" type="checkbox"/> <del>Seller</del>  <input checked="" type="checkbox"/> <del>Buyer</del>  <input type="checkbox"/> <del>To be determined _____ p _____</del>  <u>Business Days after receipt</u></p>	<p>Section 7.2.a: Payment Date  <u>p Closest Business Day to Payment Date (default)</u>  <del>25<sup>th</sup> date of Month following Month of delivery</del> <u>p</u>  <u>Next Business Day following Payment Date</u></p>
<p>Section <del>3.2: Performance Obligation</del> <u>2: Confirming Party</u>  <u>p Seller (default)</u>  <input type="checkbox"/> <del>Spot Price Standard</del> <u>Buyer</u>  <input checked="" type="checkbox"/> <del>Cover Standard</del>          Note: The following Spot Price Publication applies to both of the immediately preceding Standards and must be filled in after a Standard is selected:          _____          _____</p>	<p>Section 7.2: Method of Payment  <u>p WT - Wire Transfer (default)</u>  <input type="checkbox"/> <del>ACH - Automated Clearinghouse - Credit Only (ACH)</del>  <input type="checkbox"/> <u>Cheque / Check</u>  <input type="checkbox"/> <del>EFT - Electronic Funds Transfer (EFT)</del>  <input type="checkbox"/> <del>FEDI - Financial Electronic Data Interchange (FEDI)</del>  <input checked="" type="checkbox"/> <del>Wire Transfer (WT)</del></p>
<p>Section 3.2: Performance Obligation  <u>p Cover Standard (default)</u>  <u>p Spot Price Standard</u>          Section 13.5: Choice of Jurisdiction:          Note: The following Spot Price Publication applies to both of the immediately preceding:  <u>p Canadian Gas Price Reporter (default) _____</u>  <u>p Gas Daily Mid Point _____</u>  <u>_____ British Columbia _____ p _____</u>          _____          _____</p>	<p>Section <del>13.10: Dispute Resolution</del> <u>11.2: Force Majeure:</u>  <input type="checkbox"/> <del>Included</del> <u>Option A (default)</u> <del>or</del> <input checked="" type="checkbox"/> <del>Excluded</del>  <u>p Option B</u>  <u>[To be selected based on delivery point]</u>  <u>Option B, Section 11.2.b Liquid Delivery Points:</u>          _____          _____</p>
<p>Section 3.3: Termination Right  <u>p Does Not Apply (default)</u>  <u>p Applies</u></p>	<p><del>Special Provisions: Number of Sheets Attached:</del>  <u>_____ 4 _____ pages attached</u>  <u>p Credit Annex _____ pages attached</u></p>

IN WITNESS WHEREOF, the parties ~~hereto~~ have executed ~~this~~the Base Contract in duplicate.

<b>PARTY A</b>		<b>PARTY B</b>
_____	<del>Party</del> <u>PARTY</u>	<del>FortisBC Energy Inc.</del>
_____	Signature	_____
_____	Name	_____
_____	Title	<del>VP, Energy Supply &amp; Resource Development</del>

GasEDI BASE CONTRACT FOR ~~SHORT-TERM~~ SALE AND PURCHASE OF NATURAL GAS

COVER SHEET

Page 3 of ~~24~~

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~~October 26~~August 31, ~~2000~~2005

Date

~~DISCLAIMER: The purposes of this Contract are to facilitate trade, avoid misunderstandings and make more definite the terms of contracts of sale, purchase or exchange of natural gas. This Contract is intended for interruptible transactions or firm transactions of one year or less and may not be suitable for transactions of longer than one year. Further, GasEDI does not mandate the use of this Contract by any party. GasEDI DISCLAIMS AND EXCLUDES, AND ANY USER OF THIS CONTRACT ACKNOWLEDGES AND AGREES TO GasEDI's DISCLAIMER OF, ANY AND ALL WARRANTIES, CONDITIONS OR REPRESENTATIONS, EXPRESS OR IMPLIED, ORAL OR WRITTEN, WITH RESPECT TO THIS CONTRACT OR ANY PART THEREOF, INCLUDING ANY AND ALL IMPLIED WARRANTIES OR CONDITIONS OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY, OR FITNESS OR SUITABILITY FOR ANY PARTICULAR PURPOSE (WHETHER OR NOT GasEDI KNOWS, HAS REASON TO KNOW, HAS BEEN ADVISED, OR IS OTHERWISE IN FACT AWARE OF ANY SUCH PURPOSE), WHETHER ALLEGED TO ARISE BY LAW, BY REASON OF CUSTOM OR USAGE IN THE TRADE, OR BY COURSE OF DEALING. EACH USER OF THIS CONTRACT ALSO AGREES THAT UNDER NO CIRCUMSTANCES WILL GasEDI BE LIABLE FOR ANY DIRECT, SPECIAL, INCIDENTAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES ARISING OUT OF ANY USE OF THIS CONTRACT.~~

<b>Summary report:</b> <b>Litera Compare for Word 11.1.0.69 Document comparison done on</b> <b>4/16/2024 10:25:21 AM</b>	
<b>Style name:</b> Default Style	
<b>Intelligent Table Comparison:</b> Active	
<b>Original filename:</b> FortisBC Energy coversheet (2000 Form).doc	
<b>Modified filename:</b> 2005 GasEDI Cover Sheet.docx	
<b>Changes:</b>	
Add	67
Delete	82
Move From	0
Move To	0
Table Insert	1
Table Delete	2
Table moves to	0
Table moves from	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	0
Embedded Excel	0
Format changes	0
<b>Total Changes:</b>	152

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**GasEDI-BASE CONTRACT FOR  
SHORT-TERM SALE AND PURCHASE OF NATURAL GAS**

**GENERAL TERMS AND CONDITIONS**

TABLE OF CONTENTS

SECTION 1 - PURPOSE AND PROCEDURES .....	1
S E C T I O N 2 - D E F I N I T I O N S .....	2
SECTION 3 - PERFORMANCE OBLIGATION .....	67
SECTION 4 - TRANSPORTATION, NOMINATIONS AND IMBALANCES .....	68
SECTION 5 - QUALITY AND MEASUREMENT .....	78
SECTION 6 - TAXES .....	79
SECTION 7 - <del>BILLING</del> INVOICING, PAYMENT AND AUDIT .....	810
SECTION 8 - TITLE, WARRANTY AND INDEMNITY .....	911
SECTION 9 - NOTICES .....	911
SECTION 10 - FINANCIAL RESPONSIBILITY, DEFAULTS AND REMEDIES .....	1012
SECTION 11 - FORCE MAJEURE .....	1114
SECTION 12 - TERM .....	1115
SECTION 13 - <del>MISCELLANEOUS</del> LIMITATIONS .....	1115
SECTION 14 - <del>LIMITATIONS</del> MISCELLANEOUS .....	1216

SECTION 1 - PURPOSE AND PROCEDURES

1.1 These General Terms and Conditions are intended to facilitate Transactions on a Firm or Interruptible basis.

1.2.a Any Transaction may be effected orally or electronically with the offer and acceptance constituting the valid, binding and enforceable agreement of the parties. The parties are legally bound from the time ~~they agree to the~~ Transaction ~~terms is effected~~. Any such Transaction is considered a "writing" and to have been "signed". Notwithstanding the previous sentence, the ~~parties agree that~~ Confirming Party shall confirm ~~a Transaction~~ those Transactions requiring written confirmation pursuant to the selection made on the Cover Sheet by sending the other party a Transaction Confirmation by facsimile or mutually agreeable electronic means by the close of the ~~next 3<sup>rd</sup>~~ Business Day following the Day on which the Transaction is effected. Confirming Party adopts its confirming letterhead or the like as its signature on any Transaction Confirmation and as the identification and authentication of Confirming Party.

1.2. b If a Transaction Confirmation sent by Confirming Party is materially different from the other ~~party's~~ party's understanding

of the agreement referred to in Section 1.2.a, that other party shall give Confirming Party Notice clearly identifying such difference on Confirming ~~Party's~~ Party's Transaction Confirmation and return the annotated Transaction Confirmation to the Confirming Party by the Confirm Deadline. The failure of the other party to so notify Confirming Party by the Confirm Deadline is further evidence of the agreement between the parties and constitutes the other ~~party's~~ party's acknowledgement that the terms of the Transaction described in Confirming ~~Party's~~ Party's Transaction Confirmation are accurate. If the Transaction Confirmation contains any provisions other than those relating to the commercial terms of the Transaction (i.e. Buyer, Seller, Contract Price, Contract Quantity, performance obligation, Delivery Point, Delivery Period and transportation conditions), which modify or supplement the Base Contract, such provisions shall not be deemed to be accepted pursuant to this Section 1.2.b unless expressly agreed to in writing by both parties; provided that the foregoing shall not invalidate any Transaction agreed to by the parties.

1.2.c If a Transaction Confirmation is required pursuant to Section 1.2.a and the other party does not receive a Transaction Confirmation from Confirming Party by the deadline set out in Section 1.2.a, then the other party ~~shall may~~ notify Confirming Party by sending ~~its~~ its own Transaction Confirmation by the close of the Business Day following the deadline set out in Section 1.2.a. If a Transaction Confirmation sent by the other party is materially different from Confirming ~~Party's~~ Party's understanding of the agreement referred to in Section 1.2.a, Confirming Party shall give the other party Notice clearly identifying such difference on the other ~~party's~~ party's Transaction Confirmation and return the

GasEDI BASE CONTRACT FOR SALE AND PURCHASE OF NATURAL GAS

GENERAL TERMS AND CONDITIONS

Page 2 of 18

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August 31, 2005

annotated Transaction Confirmation to the other party by the Confirm Deadline. The failure of Confirming Party to so notify the other party by the Confirm Deadline is further evidence of the agreement between the parties and constitutes the Confirming ~~Party's~~Party's acknowledgement that the terms ~~of the~~of the Transaction described in the other ~~party's~~party's Transaction Confirmation are ~~accurate~~accu rate. If the other party does not receive a Transaction Confirmation from Confirming Party by the deadline set out in Section 1.2.a and the other party does not send its own Transaction Confirmation as provided for in this Section 1.2.c, the absence of a Transaction Confirmation in respect of a particular Transaction does not negate the existence of such Transaction.

~~GasEDI BASE CONTRACT FOR SHORT-TERM SALE AND PURCHASE OF NATURAL GAS~~

~~GENERAL TERMS AND CONDITIONS~~

~~Page of 12~~

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~~October 26, 2000~~

1.2.d The entire agreement between the parties shall be those provisions contained in ~~(i)~~ an effective Transaction Confirmation, ~~(ii) the oral or electronic agreement of~~ a Transaction entered into by the parties, ~~(iii) either orally or electronically and~~ the Base Contract, ~~and (iv) these General Terms and~~

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~~Conditions (collectively, the "Contract").~~ In the event of a conflict among the foregoing, the terms shall govern in the ~~priority listed in the previous sentence. The parties agree that all Transactions entered into shall form~~ following priority: (i) an effective Transaction Confirmation; (ii) a Transaction entered into by the parties either orally or electronically; (iii) the Credit Annex, if any; (iv) the Special Provisions, if any; and (v) the balance of the Base Contract. All Transactions are entered into in reliance on the fact that the Base Contract, each Transaction Confirmation and each Transaction constitute a single integrated agreement between the parties and ~~each Transaction shall be merged~~ the parties would not otherwise have entered into the Base Contract or any Transaction.

1.3 Communications occurring via a telephone conversation may be recorded by either party and each party ~~consents~~ consents to same without further notice to, or consent from, the other party. Each party shall, to the extent required by applicable law, give notice to, and obtain consent from, each of its employees, contractors and other representatives who may have their communications recorded ~~hereunder~~. Any recordings of communications relevant to a Transaction may be used as evidence in any legal, arbitration or other dispute resolution procedure, and the parties hereby expressly waive all rights to, and expressly agree not to, contest or otherwise argue against such use of any recordings relevant to the disputed Transaction.

1.4 Each party shall be entitled, upon reasonable request, to access the other ~~party's~~ party's recording(s), if any, associated with a disputed Transaction.

1.5 The parties hereby expressly waive all rights to, and expressly agree not to, contest any Transaction, or assert or otherwise raise any defences or arguments related to any Transaction to the effect that such is not binding, valid or enforceable in accordance with its terms because either the employee(s) or representative(s) who entered into the Transaction on behalf of a party, and who appeared to have the requisite authority to do so, did not, in fact, have such authority or because the provisions of certain applicable laws require the Transaction to be in writing and/or executed by one or both parties.

## SECTION 2 - DEFINITIONS

2.1 The following terms, when used ~~herein, shall~~ in this Contract, have the following meanings:

~~"10<sup>3</sup>m<sup>3</sup>"~~ ~~shall mean~~ means the quantity of Gas occupying a volume of 1000 cubic metres at a temperature of 15 degrees Celsius and at a pressure of 101.325 kilopascals absolute.

~~"Accelerated Payment Invoice"~~ ~~shall have~~ has the meaning set forth in Section 7.7.

"Affected Transaction" means a Firm Transaction with a Delivery Period of at least 30 Days in respect of which there has occurred that number of Failure Days that is equal to the greater of (i) 4 Days; or (ii) 5% of the number of Days in the Delivery Period.

"Affiliate" of any person, including, without limitation, a partnership, means a person, including, without limitation, a partnership, which directly or indirectly, controls, is controlled by, or is under common control with such person. For the purpose of this definition "control" means control in fact, whether by ownership of sufficient voting securities to elect a majority of the directors of a corporation, by owning sufficient partnership interest in an ordinary partnership, by being the general partner of a limited partnership, by contract or otherwise and "person" includes an individual, a partnership (including, without limitation, a limited partnership and a limited liability partnership), a corporation (including, without limitation, a limited liability corporation), an unlimited company, a joint stock company, a trust, a joint venture, an unincorporated organization, a union, a government or any department or agency of a government, and the heirs, executors, administrators or other legal representatives of an Individual.

~~"Base Contract" shall mean a contract executed by the parties that incorporates~~ means the Cover Sheet, these General Terms and Conditions ~~by reference; that specifies the agreed selections of provisions contained herein; and that sets forth other information required herein,~~ any Special Provisions, and any Credit Annex.

~~"British Thermal Unit"~~ or ~~"Btu"~~ ~~shall mean~~ means the International Btu, which is also called the Btu(IT).

**~~GasEDI BASE CONTRACT FOR SHORT-TERM SALE AND PURCHASE OF NATURAL GAS~~**

**GENERAL TERMS AND CONDITIONS**

**Page of 12**

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~~October 26, 2000~~

~~"Business Day" shall mean~~ "means" any day except Saturday, Sunday, or a statutory or banking holiday observed in the jurisdiction ~~specified of the receiving party's address for Notices as provided~~ pursuant to Section ~~13.59.1~~. A Business Day ~~shall open at 8:00 a.m. and close~~ closes at 5:00 p.m. local time for the ~~relevant party's principal place of business. The relevant party, in each instance unless otherwise specified, shall be the party to whom the notice, payment or delivery is being sent and by whom the notice or payment or delivery is to be received.~~ receiving party's address for Notices as provided pursuant to Section 9.1.

~~"Buyer"~~ refers to the party receiving Gas ~~hereunder~~ pursuant to a Transaction.

"Claiming Party" means the party claiming a suspension of its obligations due to Force Majeure.

~~"Claims" shall have~~ has the meaning set forth in Section 8.3.

~~"Confirm Deadline" shall mean~~ "means" 5:00 p.m. in the receiving ~~party's~~ party's time zone on the ~~second~~ Business Day ~~following the Business Day selected on the Cover Sheet; provided that, if~~ a Transaction Confirmation is received, ~~or if applicable, on the Business Day agreed to by the parties in the Base Contract; provided, if the Transaction Confirmation is time stamped~~ after 5:00 p.m. in the receiving ~~party's~~ party's time zone, it shall be deemed received at the opening of the next Business Day.

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"Confirming Party" ~~shall mean~~ means the party ~~designated in the Base Contract~~ selected on the Cover Sheet to prepare and forward Transaction Confirmations to the other party.

~~"Contract" shall have the meaning set forth in Section 1.2.d.~~

"Contract" means the legally-binding relationship established by (i) the Base Contract, (ii) any and all effective Transaction Confirmations, and (iii) any and all Transactions entered into by the parties either orally or electronically.

~~"Contract Price" shall mean;~~ means: (i) if the Delivery Point is in the United States, the amount expressed in U.S. ~~Dollars~~ dollars per MMBtu or U.S. ~~Dollars~~ dollars per Dekatherm; or, (ii) if the Delivery Point is in Canada, the amount expressed in Canadian ~~Dollars~~ dollars per GJ; ~~unless specified otherwise in a Transaction.~~

~~"Contract Quantity" shall mean~~ means the quantity of Gas to be delivered and received each Day pursuant to a Transaction.

~~"Contract Value"~~ of a Transaction ~~is~~ means the net present value (applying the Present Value Discount Rate) of the product of ~~(4)~~ the quantity of Gas remaining under a Transaction which the parties are obligated to transact, multiplied by ~~(2)~~ the Contract Price.

~~"Costs" shall mean~~ means all reasonable costs, legal fees and expenses incurred by the Non-Defaulting Party to replace a Transaction ~~(s)~~ or in connection with termination of a Transaction ~~(s)~~ pursuant to Section 10, including, without limitation, legal fees as between a solicitor and its client, brokerage fees, commissions and expenses incurred in maintaining, replacing or liquidating any terminated Transactions.

"Cover Sheet" means the completed Cover Sheet executed by the parties.

~~"Cover Standard" as referred to in Section 3.2 shall mean, if applicable"~~ means, if there is an unexcused failure to take or deliver ~~any quantity of Gas~~ the Contract Quantity pursuant to ~~the Contract~~ a Transaction, then the Performing Party shall use commercially reasonable efforts to ~~obtain~~ purchase Gas ~~or alternate fuels~~, or sell Gas, at a price reasonable for the delivery or production area, as applicable, consistent with: (i) the amount of notice provided by the Non-Performing Party; (ii) the immediacy of the Buyer's ~~Buyer's~~ Gas consumption needs or ~~Seller's~~ Seller's Gas sales requirements, as applicable; (iii) the quantities involved; and (iv) the anticipated length of failure by the Non-Performing Party.

"Credit Annex" means any credit support agreement as may be attached to the Cover Sheet.

~~"Day" shall mean~~ means 9:00 a.m. to 9:00 a.m. central clock time.

~~"Defaulting Party" shall have~~ has the meaning set forth in Section ~~10.2~~ 10.3.

~~"Dekatherm" shall mean~~ means one million British Thermal Units.

~~"Delivery Period" shall be~~ means the period during which deliveries are to be made ~~as set forth in the~~ pursuant to a Transaction ~~Confirmation.~~

~~"Delivery Point(s)" shall mean such point(s) as are mutually agreed upon between Seller and Buyer as set forth in the"~~ means the point(s) of delivery and receipt of Gas pursuant to a Transaction ~~Confirmation.~~

~~"Early Termination Date" shall have~~ has the meaning set forth in Section 10.3.

**~~GasEDI BASE CONTRACT FOR SHORT-TERM SALE AND PURCHASE OF NATURAL GAS~~**

**GENERAL TERMS AND CONDITIONS**

**Page of 12**

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~~October 26, 2000~~

~~"EFP" shall mean~~ means the purchase, sale or exchange of natural Gas as the ~~"physical"~~ side of an exchange for physical transaction involving gas futures contracts. EFP shall incorporate the meaning and remedies of ~~"Firm"~~.

~~"ETA" shall mean~~ means the Excise Tax Act (Canada).

~~"Event of Default" shall mean~~ means (i) the failure to make payment when due under ~~the~~this Contract, which is not remedied within 2 Business Days after receiving Notice ~~thereof of such failure~~ (except for a failure to pay an Accelerated Payment ~~invoice~~Invoice which shall immediately constitute an Event of Default); (ii) ~~the~~in respect of a party or its guarantor, if applicable, 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 petition filed or proceeding commenced against it, any bankruptcy or insolvency (however evidenced), or the inability to pay debts as they fall due; (iii) the failure to provide and maintain Performance Assurance in accordance with Section 10.1 a; (iv) ~~a party's failure to deliver or receive Gas, unless excused by the other party's Non-Performance or prevented by Force Majeure, for the greater of 4 cumulative Days or 5% of the number of Days in a Delivery Period, rounded up to a full Day, in any one Transaction~~any default under the Credit Annex (if applicable); or (v) the failure to perform any ~~other~~ material obligation under ~~the~~this Contract, ~~(other than a failure to deliver or accept delivery of~~ an obligation

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~~Gas~~ which ~~remedy is as set forth in Section 7.7 (except as provided in part (iv) of~~ is specifically covered in this definition as a separate Event of Default or is covered under Section 3.2), if not remedied within 5 Business Days after receiving Notice ~~thereof of such failure~~.

"Failure Day" means a Day on which the Non-Performing Party has failed to purchase and receive, or sell and deliver, as applicable, the greater of (i) 500 GJs or 500 MMBtus, as applicable; or (ii) 4% of the Contract Quantity to be purchased and received or sold and delivered on such Day, which failure is not excused because of the Non-Performance (non-delivery or non-receipt, as applicable) of the Performing Party, or by Force Majeure.

"Final Liquidation Amount" has the meaning set forth in Section 10.4.c.

~~"Firm" shall mean~~ means that either party may interrupt its performance under a Transaction without liability ~~(other than liability with respect to Imbalance Charges imposed pursuant to Section 4.3 or 11.5)~~ only to the extent that such performance is excused by the other ~~party's~~ party's Non-Performance ~~or is prevented by Force Majeure; provided, however, that during Force Majeure interruptions, the party invoking Force Majeure may be responsible for any Imbalance Charges as set forth in Section 4.3 related to its interruption after the nomination is made to the Transporter and until the change in deliveries and/or receipts is confirmed by the Transporter, by the exercise by a party of its suspension rights under Section 10, or by Force Majeure.~~

"Force Majeure" has the meaning set forth in Section 11.2.

~~"Gas" shall mean~~ means any mixture of hydrocarbons and non-combustible gases in a gaseous state consisting primarily of methane.

~~"GJ" shall mean~~ means 1 gigajoule; 1 gigajoule ~~=~~ 1,000,000,000 Joules. The standard conversion factor between Dekatherms and ~~GJ's~~ GJs is 1.055056 ~~GJ's~~ GJs per Dekatherm.

~~"GST" shall have~~ has the meaning set forth in Section 6.2.

~~"Imbalance Charges" shall mean~~ means any fees, penalties, costs or charges (in cash or in kind) assessed by a Transporter for failure to satisfy the ~~Transporter's~~ Transporter's balance and/or nomination requirements.

~~"Interruptible" shall mean that either party may interrupt its performance at any time for any reason, whether or not caused by an event of Force Majeure, with no liability, except such interrupting party may be responsible for any Imbalance Charges as set forth in Section 4.3 related to its interruption after the nomination is made to the Transporter and until the change in deliveries and/or receipts is confirmed by Transporter.~~

"Interest Rate" means the lower of: (i) if the amount payable is in Canadian currency, the per annum rate of interest identified from time to time as the prime lending rate charged to its most credit worthy customers for commercial loans by The Toronto Dominion Bank, Main Branch, Calgary, Alberta, Canada, plus 2 percent per annum, compounded monthly; or, if the amount payable is in United States currency, the then-effective prime rate of interest published under "Money Rates" by The Wall Street Journal, plus 2 percent per annum, compounded monthly; or (ii) the maximum applicable lawful interest rate.

"Interruptible" means that either party may interrupt its performance at any time for any reason without liability (other than liability with respect to Imbalance Charges imposed pursuant to Section 4.3 or 11.5).

~~"Joule" shall mean~~ means the joule specified in the SI system of units.

~~"Liquidation Amount" shall have the meaning set forth in Section 10.4.~~

"Liquid Delivery Point" means a point so designated on the Cover Sheet.

## **~~GasEDI BASE CONTRACT FOR SHORT-TERM SALE AND PURCHASE OF NATURAL GAS~~**

### **GENERAL TERMS AND CONDITIONS**

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Page of 12

October 26, 2000

~~"Market Value" of a Transaction is the net present value (applying the Present Value Discount Rate) of the product of (1) the quantity of gas remaining under a Transaction which the parties are obligated to transact, multiplied by (2) a market price for a similar transaction considering the remaining Delivery Period, Contract Quantity and Delivery Point; with such market price to be~~  
Price" means the amount established by either (i) a bona fide offer accepted by the Non-Defaulting Party from a third party in an arms-length negotiation for a replacement transaction or (ii) quotations obtained by the Non-Defaulting Party, in good faith, from ~~five~~<sup>3</sup> Reference Market Makers, where the ~~highest and lowest of such quotations shall be disregarded, and the~~ arithmetic average of the ~~three remaining~~<sup>3</sup> quotations shall be the ~~market price~~. Market Price. If such quotations are not readily available, or the quotations will not reflect comprehensive treatment of the pricing structure for Transactions terminated pursuant to Section 10.3(iii), as determined in the reasonable discretion of the Non-Defaulting Party, the Non-Defaulting Party shall determine the Market Price by considering any or all of the following: (A) the settlement prices of New York Mercantile Exchange Gas Futures Contracts; (B) similar sales or purchases of Gas; or (C) information available to it internally, including, without limitation, information on relevant rates, prices, yields, yield curves, volatilities, spreads and other relevant market data, provided that such information is of the same type used by the Non-Defaulting Party in the regular course of its business for the valuation of similar transactions, all adjusted to consider the remaining Delivery Period, remaining Contract Quantities, Delivery Point and differences in transportation costs. A party shall not be required to enter into a replacement transaction in order to determine the Market Price. Any extension(s) of the Delivery Period of a Transaction to which the parties are not bound as of the Early Termination Date (including, without limitation, "evergreen provisions") shall not be considered in determining the Market Price. For the avoidance of doubt, the value of any option pursuant to which one party has the right to extend the Delivery Period of a Transaction shall be included in determining the Market Price.

"Market Value" of a Transaction means the net present value (applying the Present Value Discount Rate) of the product of (i) the quantity of Gas remaining under a Transaction pursuant to which the parties are obligated to transact, multiplied by (ii) the Market Price for a similar transaction taking into consideration the nature of the obligation and the remaining Delivery Period, remaining Contract Quantities and Delivery Point.

~~"MMBtu" shall mean~~ means one million British Thermal Units which is equivalent to one Dekatherm.

~~"Month" shall mean~~ means the period beginning on the first Day of the calendar month and ending immediately prior to the commencement of the first Day of the next calendar month.

"Net Settlement Amount" has the meaning set forth in Section 10.4.b.

"NIT" means NOVA Inventory Transfer.

"Nomination Change Period" means a reasonable period of time to change a nomination, taking into account the applicable Transporter's nomination deadline(s), after receipt of an operational notice pursuant to Section 4.2 or a notification pursuant to Section 11.5, as applicable.

~~"Non-Defaulting Party" shall have~~ has the meaning set forth in Section ~~10.2~~<sup>10.3</sup>.

~~"Non-Performance" shall mean~~ means the failure by a party to purchase and receive, or sell and deliver, Gas as required by any Transaction ~~hereunder under this Contract~~, which failure is not excused ~~because of by:~~ (i) the non-performance (non-delivery or non-receipt, as applicable) of the other party, ~~or by:~~ (ii) the exercise by a party of its suspension rights under Section 10; or (iii) Force Majeure.

~~"Non-Performing Party" shall mean~~ means a party in relation to which a Non-Performance has occurred.

~~"Notice" shall have~~ has the meaning set forth in Section 9.1.

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"NOVA" means NOVA Gas Transmission Ltd., or any successor company.

"Payee" has the meaning set forth in Section 10.2.

~~"Payment Date" shall mean a date, selected by the parties in the Base Contract, on or before which payment is due Seller for Gas received by Buyer in the previous Month~~ " means the 25<sup>th</sup> day of the Month following the Month of delivery.

"Payer" has the meaning set forth in Section 10.2.

~~"Performance Assurance" shall mean security~~ means support in the form, amount and term reasonably specified by the party demanding the Performance Assurance, including, ~~but not limited to~~ without limitation, a standby irrevocable letter of credit, a prepayment, a security

## **~~GasEDI BASE CONTRACT FOR SHORT-TERM SALE AND PURCHASE OF NATURAL GAS~~**

### **GENERAL TERMS AND CONDITIONS**

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Page of 12

October 26, 2000

interest in an asset acceptable to the ~~demanding~~ party or demanding Performance Assurance or a performance bond or guarantee by an entity acceptable to the party demanding ~~the~~ Performance Assurance.

"Performing Party" ~~shall mean~~ means, if a Non-Performance has occurred, the party which is not the Non-Performing Party.

~~"Potential Event of Default" shall mean any event or circumstance which would, with Notice, the passage of time, or both, constitute an Event of Default.~~

"Present Value Discount Rate" ~~shall mean~~ means with respect to any Transaction: (i) if the amount payable is in Canadian currency, the yield of Canadian Government Treasury Bills with a term closest to the time remaining in the Delivery Period, plus 100 basis points; or (ii) if the amount payable is in United States currency, the "Ask Yield" interest rate for United States Government Treasury notes as quoted in the "Treasury Bonds, Notes, and Bills" section of the Wall Street Journal most recently published with a term closest to the time remaining in the Delivery Period, plus 100 basis points.

"PST" has the meaning set forth in Section 6.2.

"Receiving Transporter" ~~shall mean~~ means the Transporter receiving Gas at a Delivery Point, or absent such receiving Transporter, the Transporter delivering Gas at a Delivery Point.

"Reference Market Makers" ~~shall mean~~ means leading dealers in the physical gas trading market or the energy swap market, which are not Affiliates of either party, selected by the Non-Defaulting Party from among dealers of the highest credit standing, which satisfy all the criteria that such party applies generally at the time in deciding whether to offer or to make an extension of credit.

"Scheduled Gas" ~~shall mean~~ means the quantity of Gas confirmed by Transporter(s) for movement, ~~transportation or management.~~

"Seller" refers to the party delivering Gas ~~hereunder~~ pursuant to a Transaction.

"Special Provisions" means any written amendment to the Cover Sheet and/or these General Terms and Conditions as may be attached to the Cover Sheet.

"Spot Price" ~~as referred to in Section 3.2 shall mean, if applicable,~~ means the price listed in the publication specified by the parties ~~in on~~ the ~~Base Contract~~ Cover Sheet, under the listing applicable to the geographic location closest in proximity to the Delivery Point(s) for the relevant Day; provided, 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~~ immediately 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.

"Taxes" ~~shall have~~ has the meaning set forth in Section 6.1.

"Termination Payment" for a Transaction ~~is~~ means the difference between the Market Value and the Contract Value, ~~adjusted for Costs,~~ as of the Early Termination Date. If the Non-Defaulting Party ~~is~~ is Seller under that Transaction and: (i) the Market Value ~~minus Costs~~ is greater than the Contract Value, then the Termination Payment in respect of that Transaction will be positive (gain) ~~and; or (ii) if the Market Value minus Costs is less than the Contract Value, the Termination Payment in respect of that Transaction will be negative (loss).~~ If the Non-Defaulting Party is ~~the~~ Buyer under that Transaction and: (A) the Contract Value ~~minus Costs~~ is greater than the Market Value, the Termination Payment in respect of that Transaction will be positive (gain) ~~and if; or (B) If the Contract Value minus Costs is less than the Market Value, the Termination Payment in respect of that Transaction will be negative (loss).~~ Any loss with respect to a Transaction will be owed by the Defaulting Party to the Non-Defaulting Party and any gain with respect to a Transaction will be owed by the Non-Defaulting Party to the Defaulting Party.

~~"Total Termination Payment" will be the sum of the Termination Payments for all Transactions terminated pursuant to Section 10. The Total Termination Payment is a reasonable pre-estimate of the loss suffered, and is not intended as a penalty.~~

"Termination Right" means the right of the Performing Party to terminate an Affected Transaction in the circumstances described in Section 3.3, if the parties have selected this option as indicated on the Base Contract.

"Transaction" ~~shall mean~~ means any ~~gas~~ Gas sale, purchase or exchange agreement effected pursuant to the Base Contract.

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GENERAL TERMS AND CONDITIONS  
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“Transaction Confirmation” ~~shall mean the~~ means a document, ~~substantially in~~ similar to the form of Exhibit A, setting forth the terms of a Transaction ~~formed pursuant to Section 1 for a particular Delivery Period.~~

"Transporter(s)" ~~shall mean~~ means all Gas gathering or pipeline companies, or local distribution companies, acting in the capacity of a transporter, transporting Gas for Seller or Buyer upstream or downstream, respectively, of the Delivery Point pursuant to a ~~particular~~ Transaction.

"Uncovered Gas" has the meaning set forth in Section 3.2.

"Unpaid Amounts" has the meaning set forth in Section 10.4.a.

### SECTION 3 - PERFORMANCE OBLIGATION

3.1 Seller agrees to sell and deliver, and Buyer agrees to ~~receive and~~ purchase and receive, the Contract Quantity for ~~a particular~~ each Transaction in accordance with the terms of ~~the~~ this Contract. Sales and purchases will be on a Firm or Interruptible basis, as agreed in ~~a~~ each Transaction.

The parties have selected either the "Cover Standard" version or the "Spot Price Standard" version as indicated on the ~~Base Contract~~ Cover Sheet.

Cover Standard:

3.2 In ~~addition to any liability for Imbalance Charges, which shall not be recovered twice by the event of a breach of a Firm obligation, the Performing Party shall be entitled to recovery of~~ the following ~~remedy~~, ~~subject to Section 10.5, the exclusive and sole remedy of the parties in the event of a breach of a Firm obligation shall be recovery of the following for each Day that the breach occurs:~~ (i) in the event of a breach by Seller on any Day ~~(s)~~, payment by Seller to Buyer in an amount equal to the difference between the Contract Quantity and the quantity of Gas actually delivered by Seller for such Day, multiplied by the positive difference, if any, ~~between the purchase obtained by subtracting the Contract Price from the~~ price paid by Buyer utilizing the Cover Standard for replacement ~~Gas or alternative fuels and the Contract Price, adjusted for commercially reasonable differences in transportation costs to or from the Delivery Point(s), multiplied by the difference between the Contract Quantity and the quantity actually delivered by Seller for such Day(s); or (ii) in the event of a breach by Buyer on any Day(s), payment by Buyer to Seller in an amount equal to the positive difference, if any, between the Contract Price and the price received by Seller utilizing the Cover Standard for the resale of such Gas, adjusted for commercially reasonable differences in transportation costs to or from the Delivery Point(s), multiplied by; or (ii) in the event of a breach by Buyer on any Day, payment by Buyer to Seller in~~ an amount equal to the difference between the Contract Quantity and the quantity of Gas actually taken received by Buyer for such Day (s); or (iii), multiplied by the positive difference, if any, obtained by subtracting the price received by Seller utilizing the Cover Standard for the sale of such Gas from the Contract Price, adjusted for commercially reasonable differences in transportation costs to or from the Delivery Point(s); provided that, in the event that Buyer has used commercially reasonable efforts to replace the purchase Gas from a third party or Seller has used commercially reasonable efforts to sell the Gas to a third party, and no such replacement purchase or sale for all or any portion of such Gas is available, then the exclusive and sole remedy of the non-breaching party shall be any unfavorable difference between the Contract Price and the Spot Price, adjusted for such transportation to the applicable Delivery Point, multiplied by the difference between the Contract Quantity and the quantity actually delivered by Seller and received by Buyer for such Day(s) ("Uncovered Gas"), then the price paid by Buyer utilizing the Cover Standard or the price received by Seller utilizing the Cover Standard, as applicable, for the Uncovered Gas shall be deemed to be the Spot Price. Imbalance Charges shall not be recovered under this Section 3.2, but Seller and/or Buyer shall be responsible for Imbalance Charges, if any, as provided in Section 4.3. The recovery of the amount calculated above shall, to the extent such amount is paid, be the sole and exclusive remedy of the Performing Party for a breach of a Firm obligation.

Spot Price Standard:

~~3.2 In addition to any liability for Imbalance Charges, which shall not be recovered twice by the following remedy,~~

~~subject to Section 10.5, the exclusive and sole remedy of the parties in~~ 3.2 In the event of a breach of a Firm obligation, the Performing Party shall be entitled to recovery of the following for each Day that the breach occurs: (i) in the event of a breach by Seller on any Day~~(s)~~, payment by Seller to Buyer in an amount equal to the difference between the Contract Quantity and the ~~actual~~ quantity of Gas actually delivered by Seller ~~and received by Buyer~~ for such Day~~(s)~~, multiplied by the positive difference, if any, obtained by subtracting the Contract Price from the Spot Price; or (ii) in the event of a breach by Buyer on any Day~~(s)~~, payment by Buyer to Seller in an amount equal to the difference between the Contract Quantity and the ~~actual~~ quantity ~~delivered by Seller and of Gas actually~~ received by Buyer for such Day~~(s)~~, multiplied by the positive difference, if any, obtained by subtracting the ~~applicable~~ Spot Price from the Contract Price. Imbalance Charges shall not be recovered under this Section 3.2, but Seller and/or Buyer shall be responsible for Imbalance Charges, if any, as provided in Section 4.3. The recovery of the amount calculated above shall, to the extent such amount is paid, be the sole and exclusive remedy of the Performing Party for a breach of a Firm obligation.

The parties have selected either the Termination Right "Does Not Apply" or "Applies" as indicated on the Cover Sheet.

3.3 In addition to the rights set out in Sections 3.2 and 10, unless otherwise specified on the applicable Transaction Confirmation, a Performing Party shall have the right ("Termination Right") to terminate, accelerate and liquidate an Affected Transaction by providing Notice to the Non-Performing Party designating an Early Termination Date, which date shall be between 1 and 5 Business Days following the most recent Non-Performance causing the Affected Transaction, but no earlier than the effective date of the Notice, on which date the Affected Transaction shall terminate. Following the exercise of its Termination Right, the Performing Party shall calculate the Termination Payment in respect of the Affected Transaction, which amount shall be paid in accordance with Section 10.4, all as if an Early Termination Date had occurred, the Affected Transaction was the only Transaction, the Performing Party was the Non-Defaulting Party and the Non-Performing Party was the Defaulting Party. The exercise of the Termination Right shall not be deemed to be an Event of Default or similar default with respect to the Affected Transaction, any other Transactions or any other agreement between the parties. If the Performing Party fails to provide Notice to exercise its Termination Right within 5 Business Days of the occurrence of the last Non-Performance that gave rise to that Termination Right, the Termination Right shall expire, but without prejudice to any Termination Right that may subsequently arise upon the occurrence of a further Non-Performance in respect of that Transaction.

#### SECTION 4 - TRANSPORTATION, NOMINATIONS AND IMBALANCES

4.1 Seller shall have the sole responsibility for transporting the Gas to the Delivery Point(s) and for delivering such Gas at a pressure sufficient to effect such delivery but not to exceed the maximum operating pressure of the Receiving Transporter. Buyer shall have the sole responsibility for transporting the Gas from the Delivery Point(s).

4.2 The parties shall coordinate their Gas nomination and scheduling activities, giving sufficient time to meet the deadlines of the affected Transporter(s). Each party shall give the other party timely prior operational notice, sufficient to meet the requirements of all Transporter(s) involved in the Transaction, of the quantities of Gas to be delivered and purchased each Day. Such operational notice may be made by any mutually agreeable means, including, without limitation, phone, fax and email. Should either party become aware that actual deliveries at the Delivery Point(s) are greater or lesser than the Scheduled Gas, such party shall promptly notify the other party.

4.3 The parties shall use commercially reasonable efforts to avoid the imposition of any Imbalance Charges. If ~~Buyer or a party~~ Seller receives an invoice from a Transporter that includes Imbalance Charges, the parties shall determine the validity as well as the cause of such Imbalance Charges. ~~If the Imbalance Charges were incurred as a result of Buyer's actions or inactions (which shall include, but shall not be limited to, Buyer's failure to accept quantities of Gas equal to the Scheduled Gas), then Buyer shall pay for~~ are payable by the party that caused such Imbalance Charges, ~~or reimburse Seller for.~~ Notwithstanding the provisions of Sections 10.2, 10.3 and 11.5, if the other party had sufficient ability to avoid any Imbalance Charges through a revision of the nomination with the Transporter during the Nomination Change Period, then that other party shall be deemed to have caused such Imbalance Charges ~~paid by Seller to the Transporter. If the, A party shall be reimbursed promptly by the other party if that party pays~~ Imbalance Charges that were incurred as a result of Seller's actions or inactions (which shall include, but shall not be limited to, Seller's failure to deliver quantities of Gas equal to the Scheduled Gas), then Seller shall pay for such Imbalance Charges, ~~or reimburse Buyer for such Imbalance Charges paid by Buyer to the Transporter caused by the other party.~~

## SECTION 5 - QUALITY AND MEASUREMENT

5.1 All Gas delivered by Seller shall meet the quality and heat content requirements of the Receiving Transporter. The

unit of quantity measurement for purposes of ~~the~~ this Contract shall be specified as one MMBtu dry, one Dekatherm dry, one GJ or one 10<sup>3</sup>m<sup>3</sup>. Measurement of Gas quantities ~~hereunder~~ under this Contract shall be in accordance with the established procedures of the Receiving Transporter.

SECTION 6 - TAXES

The parties have selected either the <del>"Buyer Pays At and After Delivery Point"</del> version or the <del>"Seller Pays Before and At Delivery Point"</del> version as indicated on the <del>Base Contract</del> <u>Cover Sheet</u> .
Buyer Pays At and After Delivery Point:
6.1 Seller shall pay or cause to be paid all taxes, fees, levies, penalties, licenses, interest or charges imposed <del>by</del> <u>by</u> any government authority ( <del>"Taxes"</del> ) on or with respect to the Gas prior to the Delivery Point(s). Buyer shall pay or cause to be paid all Taxes on or with respect to the Gas at the Delivery Point(s) and all Taxes after the Delivery Point(s). If a party is required to remit or pay Taxes that are the other <del>party's</del> <u>party's</u> responsibility <del>hereunder</del> <u>under this Contract</u> , the party responsible for such Taxes shall promptly reimburse the other party for such Taxes. Any party entitled to an exemption from any such Taxes or charges shall furnish the other party any necessary documentation <del>thereof</del> .
Seller Pays Before and At Delivery Point:
6.1 Seller shall pay or cause to be paid all taxes, fees, levies, penalties, licenses, interest or charges imposed <del>by</del> <u>by</u> any government authority ( <del>"Taxes"</del> ) on or with respect to the Gas prior to the Delivery Point(s) and all Taxes at the Delivery Point(s). Buyer shall pay or cause to be paid all Taxes on or with respect to the Gas after the Delivery Point(s). If a party is required to remit or pay Taxes which are the other <del>party's</del> <u>party's</u> responsibility <del>hereunder</del> <u>under this Contract</u> , the party responsible for such Taxes shall promptly reimburse the other party for such Taxes. Any party entitled to an exemption from any such Taxes or charges shall furnish the other party any necessary documentation <del>thereof</del> .

6.2 The Contract Price does not include any amounts payable by Buyer for the goods and services tax (~~"GST"~~) ~~imposed or~~ harmonized sales tax (collectively "GST") imposed pursuant to the ETA or any similar or replacement value added or sales or use tax enacted under successor legislation, or any provincial sales tax ("PST") imposed by a province. Notwithstanding the selection made pursuant to Section 6.1, Buyer ~~will~~shall pay to Seller the amount of GST and PST payable for the purchase of Gas in addition to all other amounts payable under ~~the~~this Contract. Seller ~~will~~shall hold the GST and PST paid by Buyer and ~~will~~shall remit such GST and PST as required by law. Buyer and Seller ~~will~~shall provide each other with the information required to make such GST or PST remittance or claim any corresponding input tax credits, including, without limitation, GST and PST registration numbers.

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TRACT FOR SALE AND PURCHASE OF NATURAL GAS

Reserved

Page 18 of 18  
August 31, 2005

6.3.a Where Buyer is not registered for GST under the ETA and Buyer ~~indicates~~provides a written undertaking to Seller that Gas will be exported from Canada, Buyer may request Seller treat such Gas as ~~"zero-rated"~~ Gas for export within the meaning of the ETA for ~~billing~~invoicing purposes. If Seller, in its sole discretion, agrees to so treat such Gas, then Buyer hereby declares, covenants, represents and warrants to Seller that Buyer ~~will~~shall: (i) export such Gas as soon as is reasonably possible after Seller delivers such Gas to Buyer (or after such Gas is delivered to Buyer after a zero-rated storage service under the ETA) having regard to the circumstances surrounding the export and, where applicable, normal business practice; (ii) not ~~acquire~~have acquired such Gas for consumption or use in Canada (other than as fuel or compressor gas to transport such Gas by pipeline) or for supply in Canada (other than to supply natural gas liquids or ethane, the consideration for which is deemed by the ETA to be nil) before export of such Gas; (iii) ensure that, after such Gas is delivered and before export, such Gas is not further processed, transformed or altered in Canada (except to the extent reasonably necessary or incidental to its transportation and other than to recover natural gas liquids or ethane from such Gas at a straddle plant); (iv) maintain on file, and provide to Seller, if required, or to the Canada ~~Customs and~~ Revenue Agency, if requested, evidence satisfactory to the Minister of National Revenue of the export of such Gas by Buyer; and/or (v) comply with all other requirements prescribed by the ETA for a zero-rated export of such Gas.

6.3.b Where Buyer is registered for GST under the ETA and Buyer ~~indicates to Seller that Gas will be exported from Canada, Buyer may request Seller treat such Gas as "zero-rated" Gas for export within the meaning of the ETA for billing purposes, and Buyer hereby declares, represents and warrants to Seller~~provides to Seller a declaration in writing that Buyer intends to export ~~such~~ Gas from Canada by means of pipeline or other conduit in circumstances described in Section 6.3.a (i) to (iii), such Gas shall be "zero-rated" within the meaning of the ETA unless Seller knows or has reason to believe that such circumstances will not prevail.

6.3.c Without limiting the generality of Section 8.3, Buyer indemnifies Seller for any GST, penalties and interest and all

other damages and costs of any nature arising from breach of the declarations, covenants, representations and warranties contained in Section 6.3.a or 6.3.b, or otherwise, from application of GST to Gas declared, covenanted, represented and warranted by Buyer to be acquired for export from Canada.

## **GasEDI BASE CONTRACT FOR SHORT-TERM SALE AND PURCHASE OF NATURAL GAS**

### **GENERAL TERMS AND CONDITIONS**

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Page of 12

October 26, 2000

6.4 Notwithstanding the selection made pursuant to Section 6.1, where Gas is imported into Canada by pipeline or other conduit, the person for whose account the Canadian Transporter received custody from the American Transporter shall act as importer for purposes of the Customs Act (Canada) and pay any GST or duties owing pursuant to the importation.

~~6.4.5~~ In the event that any amount becomes payable pursuant to ~~the this~~ Contract as a result of a breach, modification ~~or~~ or termination of ~~the this~~ Contract, the amount payable shall be increased by any applicable Taxes ~~or~~, GST and PST remittable by the recipient in respect of that amount.

#### SECTION 7 - **BILLING**INVOICING, PAYMENT AND AUDIT

7.1 On or before the 15<sup>th</sup> day of each Month, Seller shall invoice Buyer for Gas delivered and received in the ~~preceding Month and for any other applicable~~ preceding Month and for any other amounts payable under this Contract arising in or before the preceding Month, including, without limitation, Imbalance Charges, and shall provide supporting documentation acceptable in industry practice to support the amount ~~charged~~ payable. If the actual quantity of Gas delivered and received in the preceding Month is not known by ~~the billing date,~~ billing will be prepared Seller by the invoice date, Seller will prepare the invoice based on the quantity of Scheduled Gas. The invoiced quantity of Gas will then be adjusted to the actual quantity of Gas on the following ~~Month's billing~~ Month's invoice or as soon thereafter as actual delivery and receipt information is available.

The parties have selected either "Closest Business Day to Payment Date" or "Next Business Day following Payment Date" as indicated on the Cover Sheet.

Closest Business Day to Payment Date:

7.2.a Buyer shall remit the amount due in the manner specified on the Cover Sheet, in immediately available funds, on or before the later of the Payment Date or 10 days after receipt of the invoice by Buyer; provided that: if the Payment Date falls on a Sunday, or a Monday which is not a Business Day, payment is due on the next following Business Day; and if the Payment Date falls on a Saturday, or a weekday, other than a Monday, which is not a Business Day, payment is due on the immediately preceding Business Day.

Next Business Day following Payment Date:

7.2.a Buyer shall remit the amount due in the manner specified on the Cover Sheet, in immediately available funds, on or before the later of the Payment Date or 10 days after receipt of the invoice by Buyer; provided that: if the Payment Date is not a Business Day, payment is due on the next following Business Day.

~~7.2 Buyer shall remit the amount due in the manner specified in the Base Contract, in immediately available funds,~~

~~on or before the later of the Payment Date or 10 days after receipt of the invoice by Buyer; provided that if the Payment Date is not a Business Day, payment is due on the next Business Day following that date.~~ 7.2.b If Buyer, in good faith, disputes the amount of any ~~such statement~~ invoice or any part ~~thereof~~ of such invoice, Buyer will pay to Seller such amount as ~~it~~ Buyer concedes to be correct; provided, ~~however that~~, if Buyer disputes the amount due, Buyer must provide, by the Payment Date, supporting documentation acceptable in industry practice to support the amount paid or disputed. Within 3 Business Days following resolution of the invoice dispute, any underpayments or overpayments shall be paid or refunded with accrued interest at the Interest Rate for the period from the date of underpayment or overpayment until paid.

7.3 In the event any payments are due Buyer ~~hereunder~~ under this Contract, payment to Buyer shall be made in accordance with this Section

7 mutatis mutandis 7.2 above.

7.4 If a party fails to remit the full amount payable by it when due, interest at the Interest Rate on the unpaid portion shall accrue from the date due until the date of payment.

~~date due until the date of payment at a rate equal to the lower of: (i) if the amount payable is in United States currency, the then-effective prime rate of interest published under "Money Rates" by The Wall Street Journal, plus two percent per annum, compounded monthly; or, if the amount payable is in Canadian currency, the per annum rate of interest identified from time to time as the prime lending rate charged to its most credit worthy customers for commercial loans by The Toronto Dominion Bank, Main Branch, Calgary, Alberta, Canada, plus two percent per annum, compounded monthly; or (ii) the maximum applicable lawful interest rate.~~

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7.5 Payment shall be made in the currency of the Contract Price.

7.6 The parties shall net all same currency amounts due and owing, and/or past due, arising under ~~the~~this Contract such that the party owing the greater amount shall make a single payment of the net amount to the other party in accordance with Section 7; provided that no payment required to be made pursuant to the terms of the Credit Annex or any other credit support document or agreement shall be subject to netting under this or any other provision of ~~the~~this

**~~GasEDI BASE CONTRACT FOR SHORT-TERM SALE AND PURCHASE OF NATURAL GAS~~**

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Page of 12

October 26, 2000

GENERAL TERMS AND CONDITIONS

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Page 11 of 18

August 31, 2005

Contract. In the event that the parties have executed a separate netting agreement, the terms and conditions ~~therein~~ in that separate netting agreement shall prevail.

~~7.7.7.7~~ A Performing Party may accelerate the payment owed by the Non-Performing Party related to a ~~Non-Performance~~ Non-Performance by sending to the Non-Performing Party an invoice (~~an "Accelerated Payment Invoice"~~) for the amounts due it under Section 3.2, setting forth the calculation ~~thereof of such amounts~~ and a statement that pursuant to this Section 7.7 such amount is due in 3 Business Days. If the Performing Party does not deliver an Accelerated Payment Invoice, amounts payable pursuant to Section 3.2 shall be invoiced and payable in accordance with Sections 7.1 and 7.2. The Non-Performing Party must pay the Accelerated Payment ~~Invoice~~ invoice when due and the Non-Performing Party: (i) shall not be entitled to net amounts owed to it ~~hereunder under this Contract~~ by the Performing Party against its obligation to make payment on an Accelerated Payment Invoice; and (ii) shall, notwithstanding Section 7.2, pay the full amount of the Accelerated Payment Invoice despite any dispute it may have as to the amount owing ~~thereunder under such Accelerated Payment Invoice. To the extent any disputed amount is subsequently resolved in favour of the Non-Performing Party, the Performing Party shall promptly pay such amount to the Non-Performing Party with accrued interest at the Interest Rate for the period from the date of dispute until the disputed amounts are paid in full.~~

7.8 A party shall have the right, at its own expense, upon reasonable notice and at reasonable times, to examine ~~the~~ the books and records of the other party only to the extent reasonably necessary to verify the accuracy of any statement, charge, payment, or computation made under ~~the this~~ this Contract. This examination right shall not be available with respect to proprietary information not directly relevant to Transactions. All invoices ~~and billings~~ shall be conclusively presumed final and accurate unless objected to in writing, with adequate explanation and/or documentation, within two years after the Month of Gas delivery. All retroactive adjustments under Section 7 shall be paid in full by the party owing payment within 30 days of notice and substantiation of such inaccuracy.

**SECTION 8 - TITLE, WARRANTY AND INDEMNITY**

8.1 Unless otherwise specifically agreed, title to the Gas shall pass from Seller to Buyer at the Delivery Point(s). ~~Seller~~ Seller shall have responsibility for and assume any liability with respect to the Gas prior to its delivery to Buyer at the specified Delivery Point(s). Buyer shall have responsibility for and assume any liability with respect to said Gas after its delivery to Buyer at the Delivery Point(s).

8.2 Seller warrants that ~~it Seller~~ it Seller will have the right to convey and will transfer good and merchantable title to all Gas ~~sold~~ hereunder sold under this Contract and delivered by ~~it Seller~~ it Seller to Buyer, free and clear of all liens, encumbrances, and claims.

8.3 Seller agrees to indemnify Buyer and save ~~it Buyer~~ it Buyer harmless from all losses, liabilities ~~or and~~ and claims, including ~~reasonable~~ without limitation, reasonable legal fees, on a solicitor and its client basis, and costs of court (~~"Claims"~~), from any and all persons, arising from or out of claims of title, personal injury or property damage from said Gas or other charges thereon which attach before title passes to Buyer. Buyer agrees to indemnify Seller and save ~~it Seller~~ it Seller harmless from all Claims, from any and all persons, arising from or out of claims regarding payment, personal injury or property damage from said Gas or other charges thereon which attach after title passes to Buyer.

8.4 Notwithstanding the other provisions of this Section 8, as between Seller and Buyer, Seller will be liable for all Claims to the extent that such arise from the failure of Gas delivered by Seller to meet the quality requirements of Section 5, or ~~Seller's~~ Seller's warranty obligations pursuant to Section 8.2.

**SECTION 9 - NOTICES**

9.1 All Transaction Confirmations, invoices, payments and other communications made pursuant to ~~the this~~ this Contract (~~"Notices"~~) shall be in writing and made to the addresses for Notices specified by each ~~respective~~ party as indicated on the Cover Sheet or such addresses for Notices as specified from time to time by a party in a subsequent Notice.

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9.2 ~~All Notices required hereunder may be~~ may be delivered personally or by courier, or sent by facsimile or mutually agreeable electronic means, ~~a nationally recognized overnight courier service or hand delivered.~~

9.3 ~~Notice shall be given when received on a Business Day by the addressee. In the absence of proof of the actualis deemed made on the day of delivery if delivered personally or by courier, or on the day sent by receipt date, the following presumptions will apply. Notices sent electronically or by facsimile shall be deemed to have been received upon the sending party's receipt of confirmation of a successful transmission; if the day on which such electronic or facsimile Notice is received is not a Business Day or is after five p.m. on a Business Day, then such Notice shall be deemed to have been received on the next following Business Day. Notice by overnight mail or courier shall be deemed to have been received on the next Business Day after it was sent or such earlier time as is confirmed by the receiving party.~~  
facsimile or mutually agreeable electronic means, provided that in all such cases such day is a Business Day and the

Notice is received prior to 5:00 p.m. on such day. Otherwise, such Notice will be deemed made on the next following Business Day.

## SECTION 10 - FINANCIAL RESPONSIBILITY, DEFAULTS AND REMEDIES

10.1.a If a party has reasonable grounds for insecurity regarding the payment, performance or enforceability of any

obligation under ~~the~~this Contract, such party may demand Performance Assurance, whether or not an Event of Default, ~~or Non-Performance or Potential Event of Default~~ has occurred, which Performance Assurance shall be provided by the other party by (i) the end of the 5<sup>th</sup> next Business Day after the demand is received if the demand is received by 12:00 noon on a Business Day, or (ii) the end of the 2nd Business Day after the demand is received if the demand is received after 12:00 noon on a Business Day. The Performance Assurance shall not exceed the ~~amount~~Net Settlement Amount, calculated ~~in accordance with the procedure for determining the Total Termination Payment,~~ as of the date of the demand, as if all Transactions had been terminated ~~plus all other outstanding amounts owed or accrued under the Contract.~~ Notwithstanding the foregoing provisions of this Section 10.1.a, if the Non-Defaulting Party has designated an Early Termination Date, then the Defaulting Party may not demand Performance Assurance under this Section 10.1.a.

10.1.b The party demanding Performance Assurance may, until such Performance Assurance is provided, withhold any amounts owed to the other party under this Contract or any other agreement between the parties (whether or not yet due) and setoff against such withheld amounts any amounts owed to the party demanding Performance Assurance under this Contract (whether or not yet due).

10.2 If a party ("Payer") does not pay the other party (Payee") any amount owed to Payee in accordance with Section 7, then Payee may, immediately upon giving Notice to Payer, exercise any or all of the following remedies: (i) suspend its performance under all Transactions under this Contract; (ii) withhold any amounts owed to Payer under this Contract or any other agreement between the parties (whether or not yet due); and (iii) setoff against such withheld amounts any amounts owed to Payee under this Contract (whether or not yet due). If Payee suspends its performance pursuant to this Section 10.2, Payee shall, for the period of the suspension, be entitled to damages calculated in accordance with Section 3.2, with Payee treated as the Performing Party under Section 3.2 for the purposes of this Section 10.2 and, for the purposes of Section 4.3, Payer shall be deemed to have caused any Imbalance Charges that accrue during the suspension period. If Payee has suspended performance under this Section 10.2 and Payer has paid all amounts owed to Payee in accordance with Section 7 and Payee has not designated an Early Termination Date pursuant to Section 10.3, then, promptly after such payment has been made, the parties shall resume performance under this Contract.

~~10.2.10.3~~If an Event of Default or Potential Event of Default occurs and is continuing with respect to a party (the "Defaulting Party"), then the other party  
other party (the ("Non-Defaulting Party")) shall have the right to, in addition to any other remedies available hereunder: (i) upon 1 Business Day's Notice, suspend its exercise any or all of the following remedies: (i) if the Non-Defaulting Party has not previously suspended performance pursuant to Section 10.2, immediately upon giving Notice to the Defaulting Party, to suspend the Non-Defaulting Party's performance under any or all Transactions under the this Contract; and/or (ii) without Notice, to withhold or continue to withhold any amounts owed to the Defaulting Party under the this Contract, any Transaction or any other agreement between the parties (whether or not yet due) and setoff against such withheld amounts any amounts owed the Non-Defaulting Party hereunder under this Contract (whether or not yet due).

; and (iii) to 10.3 In addition to the provisions of Section 10.2, upon the occurrence of an Event of Default, the Non-Defaulting Party may, for so long as the Event of Default is continuing, terminate, accelerate and liquidate all Transactions then outstanding (or not yet commenced) in accordance with the provisions of this Section 10 by (i) providing Notice to the Defaulting Party, and (ii) establishing designating an early termination date, which date shall be between 1 and 20 Business Days following the Event of Default but no earlier than the effective date of the Notice, on which date all such Transactions shall terminate ("Early Termination Date"). If an Early Termination Date has been designated, the Non-Defaulting Party shall calculate the Total Termination Payment and notify the Defaulting Party of such amount including detailed support for the Total Termination Payment calculation. For the purposes of Section 4.3, if the Non-Defaulting Party suspends its performance under Section 10.3(i), the Defaulting Party shall be deemed to have caused any Imbalance Charges that accrue during the suspension period. If a Non-Defaulting Party has suspended

GasEDI BASE CONTRACT FOR SALE AND PURCHASE OF NATURAL GAS

performance under Section 10.2 or 10.3 and (A) the Defaulting Party remedies the Event of Default prior to receipt of Notice from the Non-Defaulting Party designating the Early Termination Date; or (B) the Defaulting Party does not remedy the Event of Default and the Non-Defaulting Party has not designated an Early Termination Date within such 20 Business Days, then the parties shall promptly thereafter resume performance under this Contract.

~~10.4 The Non-Defaulting Party may not the Total Termination Payment against all other amounts owing (whether or not yet due) between the parties under the Contract and any other agreements between the parties. This amount constitutes the "Liquidation Amount" payable by the Defaulting Party within 2 Business Days or payable by the Non-Defaulting Party on the 25<sup>th</sup> of the Month following the Early Termination Date, as applicable. A disputed amount hereunder shall be paid by the Defaulting Party, subject to refund.~~

10.4.a As of the Early Termination Date, the Non-Defaulting Party shall determine, in good faith and in a commercially reasonable manner: (i) the amount owed (whether or not then due or invoiced) by each party with respect to all Gas delivered and received between the parties under all terminated Transactions on and before the Early Termination Date and all other amounts owing by each party to the other party under this Contract (including, without limitation, any amounts owing under Sections 3.2, 4.3 and 7.1) for which payment has not yet been made by the party that owes such

**GasEDI BASE CONTRACT FOR SALE AND PURCHASE OF NATURAL GAS**

**GENERAL TERMS AND CONDITIONS**

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**Page 13 of 18**

August 31, 2005

payment under this Contract ("Unpaid Amounts"), and (ii) the Termination Payment owed by one party to the other under each Transaction.

10.4.b The Non-Defaulting Party shall net or aggregate, as appropriate, all: (i) Termination Payments; (ii) Costs; and (iii) Unpaid Amounts, to a single liquidated amount payable by one party to the other party (the single resulting amount being the "Net Settlement Amount").

10.4.c At its sole option and without Notice to the Defaulting Party, the Non-Defaulting Party may net or setoff against any Net Settlement Amount owing by the Non-Defaulting Party to the Defaulting Party any amounts owing to the Non-Defaulting Party by the Defaulting Party under any other agreement between the parties (the single resulting amount being the "Final Liquidation Amount").

10.4.d If any amount to be included in the Final Liquidation Amount is unascertained, the Non-Defaulting Party may estimate in good faith the amount to be included, and once it is ascertained, the Final Liquidation Amount shall be subject to further adjustment by the Non-Defaulting Party, if applicable. Interest at the Interest Rate shall accrue on any underpayments or overpayments determined to have occurred from any such adjustment from the date of the underpayment or overpayment until paid.

10.4.e Once the Non-Defaulting Party has made the necessary calculations, it shall provide Notice to the Defaulting Party of the Final Liquidation Amount, setting forth in reasonable detail how such calculations were made together with supporting documentation. Failure to give such Notice shall not affect the validity or enforceability of the Final Liquidation Amount or give rise to any claim by the Defaulting Party against the Non-Defaulting Party for failure to give such Notice.

10.4.f The Final Liquidation Amount shall be paid: (i) if due from the Defaulting Party to the Non-Defaulting Party, by the Defaulting Party within 2 Business Days of Notice of the Final Liquidation Amount; or (ii) if due from the Non-Defaulting Party to the Defaulting Party, by the Non-Defaulting Party on the 25<sup>th</sup> day of the Month following the Month in which the Early Termination Date occurs. The Final Liquidation Amount, if payable by the Defaulting Party, shall be paid in full by the Defaulting Party, even if all or any part of the Final Liquidation Amount is in dispute. To the extent any disputed amount is subsequently resolved in favour of the Defaulting Party, the Non-Defaulting Party shall promptly pay such amount to the Defaulting Party with accrued interest at the Interest Rate for the period from the date of dispute until the disputed amounts are paid in full.

10.4.g With respect to this Section 10, if the parties have executed a separate netting agreement, the terms and conditions set forth in that separate netting agreement concerning the calculation of the Final Liquidation Amount shall prevail to the extent they are inconsistent with the provisions of this Contract.

10.4.h Upon the designation of an Early Termination Date in accordance with Section 10.3, the Non-Defaulting Party may (i) exercise any of the rights and remedies of a secured party with respect to all Performance Assurance or other support then available to the Non-Defaulting Party, and/or (ii) draw on any outstanding letter of credit Issued for the Non-Defaulting Party's benefit, subject in each case to the Credit Annex, if any, and the Non-Defaulting Party's obligation to return any surplus proceeds remaining after such obligations are satisfied in full.

10.5 In the event a party is a Non-Performing Party, the Performing Party shall have the right to, ~~in addition to:~~ (i) withhold any ~~other or~~

~~remedies available hereunder:~~ (i) withhold any or all payments due the Non-Performing Party ~~hereunder~~ under this Contract for the period of the applicable Non-Performance and net or ~~set-off~~ setoff amounts due the Performing Party against such withheld amounts; (ii) during the period of the applicable Non-Performance, upon at least 1 Business ~~Day's~~ Day's Notice, suspend its performance under any or all Transactions; and/or (iii) if the Non-Performing Party fails to pay any Accelerated Payment Invoice when due, the Performing Party may, without further Notice to the Non-Performing Party, declare an Early Termination Date with respect to the particular Transaction to which the Non-Performance relates in accordance with Section 10.3. The failure of the Performing Party to exercise any of the rights or remedies contained in this Section 10.5 shall not constitute a waiver of the Non-Performance, the requirement for payment as contemplated by Section 3.2 or any of the other rights or remedies of the Performing Party in connection ~~therewith~~ with such matters.

*[Link-to-previous setting changed from on in original to off in modified.].*

**~~GasEDI BASE CONTRACT FOR SHORT-TERM SALE AND PURCHASE OF NATURAL GAS~~**

**~~GENERAL TERMS AND CONDITIONS~~**

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**~~Page of 12~~**

**~~October 26, 2000~~**

~~10.6 Each party reserves to itself all rights, set-offs, counterclaims, and other defences which it is or may be entitled to arising from the Contract.~~

## SECTION 11 - FORCE MAJEURE

11.1 Except with regard to a ~~party's~~party's obligation to make payment due under ~~the~~this Contract, neither party shall be liable to the other for failure to perform a Firm obligation, to the extent such ~~failure was caused~~performance is prevented by Force Majeure.

The parties have selected either the "Option A" version or the "Option B" version as indicated on the Cover Sheet.

### Option A:

11.2 "Force Majeure" means any event not reasonably within the control of the Claiming Party which event ~~prevents or restricts delivery by Seller or receipt by Buyer, as applicable, of Gas pursuant to a Transaction, including, without limitation, the following events:~~ (i) physical events such as acts of God; landslides; lightning; earthquakes; fires; storms or storm warnings, such as hurricanes, resulting in evacuation of the affected area; floods; washouts; explosions; breakage or accident or necessity of repairs to machinery or equipment or lines of pipe; (ii) weather-related events affecting an entire geographic region, such as low temperatures which cause freezing or failure of wells or lines of pipe; (iii) interruption or curtailment of firm transportation or storage by Transporters or storage operators; (iv) acts of others such as strikes, lockouts or other industrial disturbances, riots, sabotage, terrorist acts, insurrections or wars; or (v) compliance with any court order, law, statute, ordinance, or regulation promulgated by a governmental authority having jurisdiction.

### Option B:

11.2.a If the Delivery Point is NIT, "Force Majeure" means any one or more of the following events which prevents or restricts delivery by Seller or receipt by Buyer, as applicable, of Gas at NIT: (i) an interruption, curtailment or pro-rationing by NOVA of firm NIT service which affects all NOVA shippers who had nominated for firm deliveries or firm receipts to take place by NIT on that Day; or (ii) compliance with any court order, law, statute, ordinance, or regulation promulgated by a governmental authority having jurisdiction; provided that, on any Day or any portion of a Day when there is a Force Majeure and either party provides Notice of the Force Majeure to the other, Seller shall deliver to Buyer, and Buyer shall receive from Seller, that percentage of the Contract Quantity which is equal to the percentage amount of Gas which according to NOVA has been nominated by all NOVA shippers for NIT and which NOVA is not interrupting, curtailing or pro-rationing on the Day or that portion of a Day.

11.2.b If the Delivery Point is a Liquid Delivery Point, "Force Majeure" means any one or more of the following events which prevents or restricts delivery by Seller or receipt by Buyer, as applicable, of Gas at a Liquid Delivery Point: (i) an interruption, curtailment, or pro-rationing by a Transporter, or storage operator, of firm service at the Liquid Delivery Point, regardless of the reasons therefor; or (ii) compliance with any court order, law, statute, ordinance, or regulation promulgated by a governmental authority having jurisdiction; provided that this Section 11.2.b shall not apply if the parties have not expressly identified any Liquid Delivery Points.

~~11.2.c If the Delivery Point is other than NIT or a Liquid Delivery Point, "Force Majeure" has the meaning set forth in 11.2.~~

~~God, landslides, fires, storms or storm warnings, such as hurricanes, which result in evacuation of the affected area, floods, washouts, explosions, breakage or accident or necessity of repairs to machinery or equipment or lines of pipe; (ii) weather related events affecting an entire geographic region, such as low temperatures which cause freezing or failure of wells or lines of pipe; (iii) interruption of firm transportation and/or storage by Transporters; (iv) acts of others such as strikes, lockouts or other industrial disturbances, riots, sabotage, insurrections or wars; and (v) governmental actions such as necessity for compliance with any court order, law, statute, ordinance, or regulation promulgated by a governmental authority having jurisdiction. Seller and Buyer shall make reasonable efforts to avoid the adverse impacts of a Force Majeure and to resolve the event or occurrence once it has occurred in order to resume performance.~~

11.3 This Section 11.3 is applicable only if the parties have selected either Option A above or if Section 11.2.c of

GasEDI BASE CONTRACT FOR SALE AND PURCHASE OF NATURAL GAS

~~11.3~~Option B above applies. Neither party shall be entitled to the benefit of the provisions of ~~Force Majeure~~Section 11 to the extent performance is affected

by any or all of the following circumstances: (i) the curtailment of interruptible or secondary firm transportation unless primary, ~~in-path~~in path, firm transportation is also curtailed; (ii) the ~~party claiming Force Majeure~~Claiming Party having failed to avoid the adverse implications, or to remedy the condition in accordance with Section 11.4 and to resume the performance of such covenants or obligations with reasonable dispatch; ~~or, or to provide timely notification in accordance with Section 11.5;~~ (iii) economic hardship. ~~The party claiming Force Majeure shall not be excused from its responsibility for Imbalance Charges,~~ including, without limitation, lack of finances, Seller's ability to sell Gas at a higher or more advantageous price than the Contract Price, Buyer's ability to purchase Gas at a lower or more advantageous price than the Contract Price; (iv) a regulatory agency disallowing, in whole or in part, the pass-through of costs resulting from this Contract; or (v) scheduled maintenance by a Transporter or storage operator, provided that notice of such scheduled maintenance has been provided by such Transporter or storage operator at or prior to the time the parties entered into the Transaction.

11.4 The Claiming Party shall make commercially reasonable efforts to avoid the adverse impacts of a Force Majeure  
~~11.4 Notwithstanding anything to the contrary herein, and to resolve the event once it has occurred in order to~~  
resume performance; provided that the parties agree that nothing contained in this Section 11 shall require: (i) the  
settlement of strikes, lockouts or other industrial disturbances except in the sole discretion of the party experiencing such  
disturbance; (ii) the extension of the Delivery Period of any Transaction; (iii) the parties to make up any quantity of Gas  
they would otherwise have been obligated to sell and purchase during any period when Force Majeure was validly  
claimed; (iv) Seller to deliver, or Buyer to receive, the Gas at a point other than the Delivery Point; or (v) Seller to purchase  
replacement Gas at a price greater than the Contract Price.  
~~industrial disturbances shall be entirely within the sole discretion of the party experiencing such~~  
~~disturbance.~~

11.5 ~~The party whose performance is prevented by Force Majeure~~ Claiming Party must provide notification to the  
other party of the occurrence of the Force Majeure. Initial  
notification may be given orally; ~~however, provided that, as a condition precedent to claiming relief under this Section~~  
11.5, the Claiming Party must give Notice with reasonably full particulars of the event ~~or occurrence is required~~ as soon  
as reasonably possible. ~~Upon providing notification of Force Majeure to the other party, the affected~~  
~~party~~ Notwithstanding Section 9, such Notice shall be deemed effective at the onset of the occurrence of the Force  
Majeure, and the Claiming Party will be relieved of its obligation to make or accept delivery of Gas, as applicable, to the  
extent and for the duration of the Force Majeure. For the purposes of Section 4.3, in the event of a Force Majeure, ~~and~~  
~~neither party~~ Claiming Party shall be deemed to have ~~failed in such obligations to the other during such occurrence~~  
~~or event~~ caused any Imbalance Charges arising from the interruption or curtailment of Firm deliveries or receipts due to  
the Force Majeure.

11.6 If a Force Majeure only partially affects the Claiming Party's ability to perform its purchase or sale obligations  
at a Delivery Point, the Claiming Party shall curtail its interruptible obligations at such Delivery Point to the extent  
required to meet its Firm obligations under this Contract. If, after completely curtailing all of its interruptible obligations,  
the Claiming Party is still unable to meet its Firm obligations under this Contract, then such affected party may, to the  
extent permitted by the applicable Transporter(s), reduce its Firm obligations under this Contract by the same  
percentage that all of its other firm obligations at the Delivery Point are reduced, without regard to the price paid under  
any transaction between the Claiming Party and the other firm customers or suppliers, as applicable, of the Claiming  
Party.

## SECTION 12 - TERM

12.1 ~~The~~ This Contract may be terminated by either party on 30 days' Notice, but shall remain in effect until the  
expiration  
of the latest Delivery Period of ~~any~~ all Transaction ~~Confirmation~~ (s). The rights of either party pursuant to Section 7.8, the  
obligations of either party pursuant to Section 14.10, the obligations to make payment ~~hereunder~~ under this Contract, and  
the obligation of either party to indemnify the other, ~~party~~ pursuant hereto to this Contract, shall survive the termination of  
~~the~~ this Contract.

## SECTION 13 - ~~MISCELLANEOUS~~ LIMITATIONS

13.1.a EXCEPT AS SET FORTH IN SECTION 8, THE SPECIAL PROVISIONS OR THE APPLICABLE TRANSACTION  
CONFIRMATION, THERE IS NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE,  
AND ANY AND ALL IMPLIED WARRANTIES ARE DISCLAIMED.

13.1.b FOR BREACH OF ANY PROVISION OF THIS CONTRACT FOR WHICH AN EXPRESS MEASURE OF DAMAGES  
IS PROVIDED IN THIS CONTRACT, A PARTY'S LIABILITY FOR DAMAGES FOR THAT BREACH SHALL BE LIMITED  
AS SET FORTH IN SUCH PROVISION, AND ALL OTHER DAMAGES AT LAW OR IN EQUITY ARE WAIVED. IF NO  
EXPRESS MEASURE OF DAMAGES IS PROVIDED IN THIS CONTRACT, A PARTY'S LIABILITY SHALL BE LIMITED  
TO DIRECT ACTUAL DAMAGES ONLY, AND ALL OTHER DAMAGES AT LAW OR IN EQUITY ARE WAIVED.

13.1.c EXCEPT TO THE EXTENT PROVIDED IN THIS CONTRACT AS AN EXPRESS MEASURE OF DAMAGES,  
NEITHER PARTY SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT  
DAMAGES, INCLUDING, WITHOUT LIMITATION, LOST PROFITS OR OTHER BUSINESS INTERRUPTION

GasEDI BASE CONTRACT FOR SALE AND PURCHASE OF NATURAL GAS  
DAMAGES, ARISING BY STATUTE, IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION OR  
OTHERWISE.

13.1.d IT IS THE INTENT OF THE PARTIES THAT THE LIMITATIONS IMPOSED ON REMEDIES AND THE MEASURE  
OF DAMAGES IN THIS SECTION 13.1 BE WITHOUT REGARD TO THE RELATED CAUSE OR CAUSES.

**~~GasEDI BASE CONTRACT FOR SHORT-TERM SALE AND PURCHASE OF NATURAL GAS~~**

**GENERAL TERMS AND CONDITIONS**

**Page of 12**

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~~October 26, 2000~~

INCLUDING, WITHOUT LIMITATION, THE NEGLIGENCE OF ANY PARTY, WHETHER SUCH NEGLIGENCE BE SOLE, JOINT OR CONCURRENT, OR ACTIVE OR PASSIVE.

13.1.e TO THE EXTENT THAT ANY DAMAGES REQUIRED TO BE PAID UNDER THIS CONTRACT ARE LIQUIDATED, THE PARTIES ACKNOWLEDGE THAT THE MEASURE OF DAMAGES IS DIFFICULT OR IMPOSSIBLE TO DETERMINE, OR THAT OTHERWISE OBTAINING AN ADEQUATE MEASURE OF DAMAGES IS INCONVENIENT AND THE DAMAGES CALCULATED UNDER THIS CONTRACT, INCLUDING, WITHOUT LIMITATION, DAMAGES UNDER SECTIONS 3.2 AND 10.4, CONSTITUTE REASONABLE APPROXIMATIONS OF THE HARM OR LOSS SUFFERED AND ARE NOT INTENDED AS PENALTIES.

13.1.f NOTHING IN THIS SECTION 13.1 SHALL LIMIT THE RIGHT OF A PARTY TO RECOVER OR ENFORCE A RIGHT TO DAMAGES PERMITTED BY THIS CONTRACT.

13.1.g EXCEPT AS LIMITED IN THIS SECTION 13.1, SECTION 3.2, THE SPECIAL PROVISIONS OR THE APPLICABLE TRANSACTION CONFIRMATION, EACH PARTY RESERVES TO ITSELF ANY AND ALL RIGHTS, REMEDIES, SETOFFS, COUNTERCLAIMS AND DEFENCES THAT MAY BE AVAILABLE TO IT AT LAW OR IN EQUITY IN RESPECT OF THE SUBJECT MATTER OF THIS CONTRACT.

SECTION 14 - MISCELLANEOUS

~~13.1~~ 14.1 ~~The~~ This Contract shall be binding upon and inure to the benefit of the successors, assigns, personal representatives,

and heirs of the respective parties ~~hereto, and the covenants, conditions, rights and obligations of the Contract shall run for the full term of the~~ to this Contract. No assignment of ~~the~~ this Contract, in whole or in part, will be made without the prior written consent of the non-assigning party, which consent will not be unreasonably withheld or delayed; provided, either party may (i) transfer, sell, pledge, encumber, or assign this Contract or the accounts, revenues, or proceeds of this Contract in connection with any financing or other financial arrangements, or (ii) transfer its interest to any parent or ~~affiliate~~ Affiliate by assignment, merger or otherwise without the prior approval of the other party. Upon ~~any assignment~~, transfer and assumption, the assignor or transferor, as applicable, shall remain principally liable for and shall not be relieved of nor discharged from any obligations ~~hereunder~~ under this Contract without the written consent of the non-assigning party.

~~13.2~~ 14.2 If any provision in ~~the~~ this Contract is determined to be invalid, void or unenforceable by any court having ~~jurisdiction,~~ jurisdiction, such determination shall not invalidate, void, or make unenforceable any other provision, agreement or covenant of ~~the~~ this Contract.

~~13.3~~ 14.3 No waiver of any breach of ~~the~~ this Contract shall be held to be a waiver of any other or subsequent breach ~~-, and~~

(Deleted graphics)

any waiver of any breach of this Contract by a party shall not be effective unless it is in writing.

13.4

~~The~~14.4

This Contract sets forth all understandings between the parties respecting each Transaction, and any prior contracts, understandings and representations, whether oral or written, relating to such Transactions are merged into and superseded by ~~the~~this Contract ~~and any effective Transaction Confirmation(s).~~ The Base Contract may be amended only by a writing executed by both parties.

~~13.5~~The ~~interpretation~~ ~~and~~ ~~performance~~ ~~of~~ ~~the~~14.5

This Contract shall be governed by ~~the~~ construed and enforced in accordance with the applicable laws of the ~~jurisdiction specified by~~

~~the parties in the Base Contract~~jurisdiction selected on the Cover Sheet, excluding, however, any conflict of laws rule which would apply the law of another jurisdiction, and the parties agree to surrender and attorn to the non-exclusive jurisdiction of the courts of the jurisdiction specified on the Cover Sheet for the resolution of any disputes arising under or in connection with this Contract.

13.6

~~The~~14.6

This Contract and all provisions ~~herein~~in this Contract will be subject to all applicable and valid statutes, rules, orders ~~and~~ and regulations of any Federal, State, Province, or local governmental authority having jurisdiction over the parties, their facilities, ~~or~~ Gas supply, or ~~the~~this Contract.

~~13.7~~14.7 There is no third party beneficiary to ~~the~~this Contract.

~~13.8~~14.8 Each party to this Contract represents and warrants that it has full and complete authority to enter into and perform this Contract. Each ~~person who executes the Contract on behalf of either~~ party represents and warrants that ~~it has each person who executes this Contract on behalf of such party has the~~ full and complete authority to do so ~~and that such party will be bound thereby.~~

14.9 The headings and subheadings contained in this Contract are used solely for convenience and do not constitute a part of this Contract between the parties and shall not be used to construe or interpret the provisions of this Contract.

14.10.a Neither party shall disclose directly or indirectly without the prior written consent of the other party, the terms of any Transaction, this Contract, or any information obtained pursuant to Section 7.8, to a third party (other than the Affiliates, employees, lenders, credit rating agencies, royalty owners, counsel, accountants and other agents or advisers 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 have a need to know and shall have agreed to keep such information 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 under this Contract) and use reasonable efforts to prevent or limit the disclosure. The existence of this Contract is not subject to this confidentiality obligation. In accordance with and subject to Section 13.1, the parties shall be entitled to all remedies available to them at law or in equity, including, without limitation, injunctive remedies, to enforce, or to seek relief in connection with, this confidentiality obligation. The confidentiality obligation set forth in this Section 14.10.a shall remain in full force and effect until the later of: (A) one year following termination of this Contract; or (B) two years following receipt of information obtained pursuant to Section 7.8.

14.10.b In the event that disclosure is required in order to comply with any applicable law, order, regulation, or exchange rule, the party subject to such requirement may disclose the relevant information to the extent so required, but shall promptly notify the other party, prior to disclosure, and shall cooperate (consistent with the disclosing party's legal obligations) with the other party's efforts to obtain protective orders or similar restraints with respect to such disclosure at the expense of the other party.

14.11 It is the intention of the parties that this Contract, and any guarantee of a party's liabilities under this Contract, shall each constitute an "eligible financial contract" within the meaning of the Bankruptcy and Insolvency Act (Canada), the Companies' Creditors Arrangement Act (Canada), the Winding-Up and Restructuring Act (Canada), and other Canadian insolvency legislation, and in that regard, each party represents and warrants to the other party (and such representation and warranty shall be deemed to be repeated at the time each Transaction is entered into) that: (i) its business consists, in whole or in part, of entering into "eligible financial contracts" for the purposes of managing its financial risk arising out of commodity price fluctuations; and (ii) it is entering into each Transaction in connection with the management of its financial risk arising out of commodity price fluctuations. To the extent that this Contract is, or the parties are, subject to the application of the United States Bankruptcy Code, it is the intention of the parties that this Contract shall constitute a "forward contract", and in that regard, each party represents and warrants to the other party (and such representation and warranty shall be deemed to be repeated at the time each Transaction is entered into) that it is a "forward contract merchant", in each case, within the meaning of that legislation.

~~13.9~~14.12 For currency conversions required under ~~the~~this Contract, to convert Canadian or United States currency to the other,

the parties shall use the average of the Bank of Canada posted noon spot exchange rates as quoted for each Day during the Month during which Gas was, or was obligated to be, delivered and received.

~~13.10 Any controversy or claim arising out of or relating to the Contract shall be determined by arbitration in accordance with the International Arbitration Rules of the American Arbitration Association.~~

## **SECTION 14--LIMITATIONS**

~~14.1 EXCEPT AS SET FORTH HEREIN, THERE IS NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY AND ALL IMPLIED WARRANTIES ARE DISCLAIMED. FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, A PARTY'S LIABILITY HEREUNDER SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION, AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED HEREIN OR IN A TRANSACTION, A PARTY'S LIABILITY SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY, SUCH DIRECT ACTUAL DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. UNLESS EXPRESSLY HEREIN PROVIDED, NEITHER PARTY SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION OR OTHERWISE. IT IS THE INTENT OF THE PARTIES THAT THE LIMITATIONS HEREIN IMPOSED ON REMEDIES AND THE MEASURE OF DAMAGES BE WITHOUT REGARD TO THE CAUSE OR CAUSES RELATED THERETO, INCLUDING THE NEGLIGENCE OF ANY PARTY, WHETHER SUCH NEGLIGENCE BE SOLE, JOINT OR CONCURRENT, OR ACTIVE OR PASSIVE. TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, OR OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT AND THE DAMAGES CALCULATED HEREUNDER CONSTITUTE A REASONABLE APPROXIMATION OF THE HARM OR LOSS.~~

14.13 Each party irrevocably waives its respective right to any jury trial with respect to any litigation arising under or in connection with this Contract.

14.14 The United Nations Convention on Contracts for International Sale of Goods is specifically excluded from application to this Contract.

DISCLAIMER: The purposes of this Contract are to facilitate trade, avoid misunderstandings, and make more definite, the terms of contracts for sale, purchase or exchange of natural gas. GasEDI does not mandate the use of this Contract by any party. GasEDI DISCLAIMS AND EXCLUDES, AND ANY USER OF THIS CONTRACT ACKNOWLEDGES AND AGREES TO GasEDI'S DISCLAIMER OF, ANY AND ALL WARRANTIES, CONDITIONS OR REPRESENTATIONS, EXPRESS OR IMPLIED, ORAL OR WRITTEN, WITH RESPECT TO THIS CONTRACT OR ANY PART OF THIS CONTRACT, INCLUDING, WITHOUT LIMITATION, ANY AND ALL IMPLIED WARRANTIES OR CONDITIONS OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY, OR FITNESS OR SUITABILITY FOR ANY PARTICULAR PURPOSE (WHETHER OR NOT GasEDI KNOWS, HAS REASON TO KNOW, HAS BEEN ADVISED, OR IS OTHERWISE IN FACT AWARE OF ANY SUCH PURPOSE), WHETHER ALLEGED TO ARISE BY LAW, BY REASON OF CUSTOM OR USAGE IN THE TRADE, OR BY COURSE OF DEALING. EACH USER OF THIS CONTRACT ALSO AGREES THAT UNDER NO CIRCUMSTANCES WILL GasEDI BE LIABLE FOR ANY DIRECT, SPECIAL, INCIDENTAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES ARISING OUT OF ANY USE OF THIS CONTRACT.

<b>Summary report:</b> <b>Litera Compare for Word 11.1.0.69 Document comparison done on</b> <b>9/9/2022 10:37:22 AM</b>	
<b>Style name:</b> Default Style	
<b>Intelligent Table Comparison:</b> Active	
<b>Original filename:</b> GasEDI Contract General Terms and Conditions.pdf	
<b>Modified filename:</b> 2005 GasEDI General Terms and Conditions.pdf	
<b>Changes:</b>	
<u>Add</u>	598
<del>Delete</del>	526
<del>Move From</del>	0
<u>Move To</u>	0
<u>Table Insert</u>	3
<del>Table Delete</del>	0
<u>Table moves to</u>	0
<del>Table moves from</del>	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	1
Embedded Excel	0
Format changes	0
<b>Total Changes:</b>	1128

**Appendix D**

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**PROPOSED AMENDMENTS TO THE STANDARD  
PROVISIONS - BLACKLINED**

## Standard Provisions to The GasEDI Contract for Short-Term Sale and Purchase of Natural Gas

The General Terms and Conditions to the GasEDI Base Contract for Short-Term Sale and Purchase of Natural Gas dated August 31, 2005 are hereby amended as follows:

1. Replace the definition of "Gas" with the following in Section 2:

"Gas" shall mean any mixture of hydrocarbons and non-combustible gases in a gaseous state consisting primarily of methane, including biomethane."

2. Insert the following additional sentence at the end of Section 3.1:

"All Transactions shall be deemed to be Firm unless expressly identified as EFP or Interruptible."

3. Insert the following additional sentence at the end of Section 3.2:

"In addition to the above amount, the party in breach shall reimburse the other party for all reasonable transportation costs incurred as a result of the breach by Seller or Buyer on the applicable Day(s)."

4. Insert the following clause as Section 6.2:

The Contract Price does not include any amounts payable by Buyer for the goods and services tax or harmonized sales tax (collectively "GST") imposed pursuant to the ETA or any similar or replacement value added or sales or use tax enacted under successor legislation, or any provincial sales tax ("PST") and/or carbon tax ("CT") imposed by a province. Notwithstanding the selection made pursuant to Section 6.1, Buyer will shall pay to Seller the amount of GST, PST and CT payable for the purchase of Gas in addition to all other amounts payable under this Contract. Seller will shall hold the GST, PST and CT paid by Buyer and will shall remit such GST, PST and CT as required by law. Buyer and Seller will shall provide each other with the information required to make such GST, PST and CT remittance or claim any corresponding input tax credits, including, without limitation, GST, PST and CT registration numbers.

5. Insert the following clause as Section 10.1A after Section 10.1:

"For purposes of this Contract, "reasonable grounds for insecurity regarding the payment performance, or enforceability of any obligation under the Contract" with respect to a party shall mean the downgrading of any unsecured, long-term, senior debt of such party or any entity providing a guarantee or other form of credit support for the obligations of such party, such that debt is rated below "BBB (low)" by Dominion Bond Rating Services ("DBRS"), "BBB-" by Standard & Poor's, or "Baa3" by Moody's Investors Service, Inc."

6. Insert the following additional sentence at the end of Section 10.3

"The failure to give such notice contemplated shall not affect the validity or enforceability of the liquidation or give rise to any claim by the Defaulting Party against the Non-Defaulting Party."

Deleted: October 26

Deleted: 0

Moved (insertion) [1]

Deleted: 2

Deleted: 3. Insert the following at the beginning of the first sentence in Section 7.1:¶

¶ "On or before the 15th Day of each Month"¶

4. Change Section 7.2 "...payment is due on the next Business Day" to "...payment is due on the preceding Business Day".¶

5. Insert the following additional sentence at the end of Section 7.2:¶

¶ "Upon resolution of the billing dispute, any underpayments or overpayments shall be paid or refunded with accrued interest at the rate specified in Section 7.4 for the period until such underpayments or overpayments are made."¶

6

Deleted: 7

7. Delete Sections 11.2 and 11.3 and replace with the following:

"11.2 The parties intend that the term "Force Majeure" shall be restricted to mean an event or circumstance which directly prevents or restricts one party from performing its obligations at a Delivery Point specified under one or more Transactions, which event or circumstances was not anticipated as of the date the Transaction was agreed to, which is not within the reasonable control of the party providing notification of the Force Majeure to the other party, and which, by the exercise of due diligence, the party providing notification of the Force Majeure to the other party is unable to overcome or avoid or cause to be avoided. For greater certainty, if the Delivery Point is:

11.2.a NIT, or other similar inventory transfer account, "Force Majeure" is restricted to mean an interruption, curtailment or pro-rationing by a Transporter of firm inventory transfer service, which affects all shippers who had nominated for firm deliveries or firm receipts to take place by inventory transfer on that Day. On any Day or any portion of a Day that there is a Force Majeure, Seller shall deliver to Buyer, and Buyer shall receive from Seller, that percentage of the Contract Quantity which is equal to the percentage amount of Gas which according to the Transporter, had been nominated by all inventory transfer shippers and which the Transporter is not interrupting, curtailing or pro-rationing on the Day or that portion of a Day without regard to price;

11.2.b Located at a producer's, processor's, distributor's or consumer's plant gate or a specified location on the gathering system for production from the wells in a particular geographic area, "Force Majeure" includes: (i) physical events such as acts of God, landslides, lightning, earthquakes, fires, storms or storm warnings that result in evacuation of the affected area, floods, washouts, explosions, breakage of or accident or necessity of repairs to machinery or equipment or lines of pipes; (ii) weather related events affecting an entire geographic region, such as low temperatures which cause freezing or failure of wells or lines of pipe; (iii) interruption of firm transportation and/or storage by Transporters; (iv) acts of others such as strikes, lockouts or other industrial disturbances, riots, sabotage, terrorist acts, insurrections or wars; and (v) governmental actions such as necessity for compliance with any court order, law, statute, ordinance, or regulation promulgated by a governmental authority having jurisdiction; and

11.2.c A Delivery Point other than 11.2.a or 11.2.b, "Force Majeure" is restricted to mean (i) a curtailment or interruption by a Transporter of firm service at the Delivery Point, regardless of the reasons therefore, or (ii) any governmental actions such as the requirement to comply with any court order or any law, statute, regulation or authorization of a governmental authority having jurisdiction."

Deleted: 86. Insert the following additional sentence at the end of Section 10.g6:...

Deleted: 6

Deleted: 10

Deleted: and 11.4

8. Insert the following additional sentence at the end of Section 13.1g:

"The Non-Defaulting Party's rights under this Contract are in addition to and not in limitation or exclusion of any other rights the Non-Defaulting Party may have (whether by contract, operation of law, or otherwise)."

Deleted: 7

9. Replace Section 14.5 with the following:

"The interpretation and performance of this Contract shall be governed by the laws of the Province of British Columbia, excluding, however, any conflict of laws rule which would apply the law of another jurisdiction."

Deleted: 8

Deleted: 11

Deleted: 13

10. Replace Section 14.6 with the following:

"This Contract and all provisions herein will be subject to all applicable and valid statutes, rules, orders and regulations of any Federal, Provincial, State, or local governmental authority having jurisdiction over the parties, their facilities, or Gas supply, this Contract or Transaction Confirmation or any provisions thereof."

Deleted: 9

Deleted: 12

Deleted: 13

11. Replace Section 14.12 with the following:

"For currency conversions required under the Contract, to convert Canadian or United States currency to the other, the parties shall use the average of the Bank of Canada Daily Average Exchange Rates posted by 16:30 Eastern Time, as quoted for each Day during the Month during which Gas was, or was obligated to be, delivered and received."

Deleted: 0

Deleted: 3

Deleted: 13.9

12. Replace Section 14.13 with the following:

"Any controversy or claim arising out of or relating to the Contract, or the breach thereof, shall be determined by arbitration in accordance with the Domestic Commercial Arbitration Rules of Procedure of the British Columbia International Commercial Arbitration Centre in Vancouver, British Columbia. The place of arbitration shall be Vancouver, British Columbia, Canada. The number of arbitrators shall be one. The language of the arbitration shall be English."

Deleted: 41

Deleted: 13.10

13. 14. Insert the following as Section 14.15:

"Time is of the essence of this Contract and the terms and conditions thereof."

Deleted: 52

Deleted: Insert the following as Section 13.11.¶

¶

"The terms of this Contract, including but not limited to the Contract price, the Transporter(s), and cost of transportation, and the quantity of Gas purchased or sold, shall be kept confidential by the parties, except as required (i) in order to comply with any applicable law, order, or regulatory requirement, or (ii) for the purpose of effectuating transportation of Gas pursuant to this Agreement, or (iii) to the extent such information is delivered to a third party for the sole purpose of evaluation, compilation, establishment or editorial review of various Gas price indices."...

Deleted: 16.

Deleted: 13.12

Deleted: 173

Deleted: 13.13

15. Insert the following as Section 14.16:

"As a result of the June 1, 2015 changes with respect to the Foothills Pipeline gas management system, Foothills Pipeline ("FH") no longer offers a market trading center on the Canadian side of the US/Canada border at Kingsgate.

With respect to trades at Kingsgate Foothills or the Huntingdon Delivery Points, currently or at sometime in the future, the parties agree to the following:

a. Kingsgate

If any Transaction Confirmation specifies Kingsgate GTN as the Delivery Point, the following shall apply:

- The Delivery Point shall be deemed to be on the Canadian side of the border and title to the Gas shall pass from the Seller to the Buyer in Canada;
- Buyer shall be the exporter of the Gas from Canada at Kingsgate and shall report the export to the Canada Energy Regulator and Buyer shall be the importer of Gas into the US and be responsible for reporting the transaction as in compliance with applicable laws including to the Department of Energy (DOE) and US Customs.

b. Huntingdon

Consistent with the location of the market centers at Huntingdon in Canada at the time of entering into the Base Contract, the parties acknowledge that if any Transaction Confirmation specifies Huntingdon or FortisBC Huntingdon Inc. as the Delivery Point and the Gas will be exported, the following applies:

- The Delivery Point shall be on the Canadian side of the border.

- To the extent that Buyer exports the Gas from Canada to the US, Buyer shall be the exporter of the Gas at Huntingdon and shall be the importer of Gas into the US and shall report the transaction as an importer in compliance with all applicable laws including to the Department of Energy (DOE) and US Customs."

**Moved up [1]:** Replace the definition of "Gas" with the following in Section 2:¶

¶  
¶"Gas" shall mean any mixture of hydrocarbons and non-combustible gases in a gaseous state consisting primarily of methane, including biomethane."¶

**Deleted:** 18.

Acknowledged and Agreed to this  
\_\_\_ day of \_\_\_\_\_, 20\_\_

Acknowledged and Agreed to this  
\_\_\_ day of \_\_\_\_\_, 20\_\_

FORTISBC ENERGY INC.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_



**ORDER NUMBER**

**G-xx-xx**

IN THE MATTER OF  
the *Utilities Commission Act*, RSBC 1996, Chapter 473

and

FortisBC Energy Inc.

Application for Approval of Amendments to Rate Schedule 30 – Off-System Sales and Purchases Rate Schedule  
and Agreement (Canada and U.S.A.)

**BEFORE:**

[Panel Chair]  
Commissioner  
Commissioner

on **Date**

**ORDER**

**WHEREAS:**

- A. On October 31, 2024, FortisBC Energy Inc. (FEI) applied to the British Columbia Utilities Commission (BCUC) for approval, pursuant to sections 59 to 61 of the *Utilities Commission Act* (UCA), of amendments to Rate Schedule 30 – Off-System Sales and Purchases Rate Schedule and Agreement (Canada and U.S.A.) (RS 30) in order to adopt the General Terms and Conditions (GT&Cs) of the GasEDI Base Contract for Short-Term Sale and Purchase of Natural Gas dated August 31, 2005 (2005 GasEDI Base Contract) and related amendments to the Standard Provisions, effective January 1, 2025 (Application);
- B. By Order G-79-01, dated July 12, 2021, the BCUC approved RS 30 and approved further amendments by Orders G-89-03, G-197-11, G-19-16, and most recently by Order G-58-20 dated March 19, 2020. The current form of RS 30 incorporates the GT&Cs of the GasEDI Base Contract for Short-Term Sale and Purchase of Natural Gas dated October 26, 2000 (2000 GasEDI Base Contract) and the related Standard Provisions.
- C. The BCUC has reviewed the Application and considers that approval is warranted.

**NOW THEREFORE** pursuant to sections 59 to 61 of the UCA, the BCUC orders as follows:

- 1. FEI is approved to amend RS 30 to adopt the 2005 GasEDI Base Contract and related amendments to the Standard Provisions, effective January 1, 2025.
- 2. FEI is to file the amended RS 30 Tariff pages for BCUC endorsement at least 15 days prior to the effective date.

**DATED** at the City of Vancouver, in the Province of British Columbia, this (XX) day of (Month Year).

BY ORDER

(X. X. last name)  
Commissioner