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**\*The uppercase terms used herein shall have the meanings as ascribed to the corresponding terms set out in the Definitions section of this Tariff.\***

**ARTICLE 1 - DELIVERY PRESSURES****1.1 Point of Receipt**

Customer agrees to deliver the Gas, or cause the Gas to be delivered into the Gas Transmission System at the Point of Receipt at such pressures as TransGas requires from time to time at the Point of Receipt not to exceed the maximum pressure limit as set out on the respective TransGas Contract. TransGas reserves the right to change the said maximum pressure limit upon six (6) Months' written notice to Customer.

**1.2 Point of Delivery**

TransGas agrees to deliver the Gas to Customer at the Point of Delivery out of the Gas Transmission System at pressures as follows:

- (a) Intra-Saskatchewan demand and non-demand Delivery Transportation Service Customers: at gauge pressures within the pressure limits as set out on the respective TransGas Contract;
- (b) Export Delivery Transportation Service Customers: at pressures as required by the Customer, subject to the maximum pressure limit as set out on the respective TransGas Contract.

**ARTICLE 2 - QUANTITY OF GAS****2.1 General Obligations**

Subject to the other provisions of the Tariff, TransGas agrees to receive from Customer each Day at each Point of Receipt the quantity of Gas which Customer tenders for transportation on such Day, up to the Contract Demand, and TransGas agrees to tender for delivery to Customer and Customer shall take on such Day at the Point of Delivery, an amount of Gas containing the equivalent amount of Energy as are contained in the amount of Gas tendered by Customer at the Point of Receipt, less Customer's share of Fuel Gas and Unaccounted for Gas, where applicable, up to the Contract Demand.

## 2.2 Nominations

Customer agrees to place a Nomination with TransGas, specifying in GJs, the amount of Gas to be made available by the Customer at the Point of Receipt and by TransGas at the Point of Delivery in compliance with the Nomination Procedure. For Customers whose type of Service includes a Demand Charge, TransGas will allocate Customer's Nomination in the following order of priority:

- 1) Firm Service up to the Contract Demand,
- 2) Interruptible Service, if applicable.

## 2.3 Daily Flow Rates

Customer agrees to ensure that, on a reasonable efforts basis, the actual daily flows will match the daily Nomination. For those Customers entitled to Nominate on a Monthly basis, this obligation applies based on a representative daily Nomination calculated by dividing the Monthly Nomination by the number of Days in the Month.

## 2.4 Hourly Flow Rates

Customer hourly flow capability will be based on the peak design capacity identified in both the construction and transportation Schedules of Service, with Firm Service up to the daily equivalent of the maximum hourly rate.

Where no maximum hourly rate is available or otherwise provided in the Schedules of Service, TransGas will assume the 120% rule as the default requirement. The 120% rule is defined as follows: the maximum hourly rate of flow at the Point of Receipt or the Point of Delivery shall not be greater than one hundred and twenty percent (120%) of the hourly equivalent of the Contract Demand, or the accepted Nomination for Interruptible transportation. Thus, the maximum hourly rate will be equal to the Contract Demand, or the accepted Nomination Interruptible transportation, divided by 24 hours times 120 percent.

TransGas reserves the right to restrict the Customer to a lesser hourly rate, within the Customer's daily Firm capacity, where Customer hourly demand is negatively impacting TransGas' Firm Service commitments to other Customers, or placing TransGas or SaskEnergy facilities at risk.

## 2.5 Right to Restrict Flows

In the event daily or hourly flows fall outside the conditions outlined in Clauses 2.3 and 2.4 herein, TransGas reserves the discretionary right to restrict flows at Points of Receipt and Delivery.

**2.6 Temporary Increases to Contract Demand**

Notwithstanding **Item 5(a)** of the Delivery Transportation Service Specification, TransGas may consider a temporary increase to Contract Demand in instances of special Customer requirements for any Day or any number of Days. The temporary increase to Contract Demand may be for a minimum of one (1) Month but not to exceed one (1) year.

**2.7 Authorized Overrun Capacity**

For any amounts of Gas delivered for the purposes of Impaired Receipts and Deliveries: re Planned Outages, as outlined in Article 16, Customer shall make application in writing to TransGas for an Authorized Overrun Capacity, prior to delivery.

If Customer elects to utilize the Authorized Overrun Capacity, Customer Contract Demand will remain unchanged for such use. Customer shall only pay a Demand Charge based on Customer's Contract Demand and any applicable Commodity Charge, as specified in the Rates and Charges Schedule, for the Gas delivered under the Authorized Overrun Capacity, in addition to any other charges Customer is obligated to pay.

**2.8 Shipper's Imbalance Account at TEP**

All Gas transported on a Receipt Transportation Service each Day shall be transported to Shipper's own Shipper's Imbalance Account at TEP. All Gas transported on a Delivery Transportation Service each Day shall be transported from Shipper's own Shipper's Imbalance Account at TEP. On any given Day, a Shipper may utilize a Title Transfer(s) to move Gas from Shipper's Imbalance Account at TEP to another Shipper's Imbalance Account at TEP.

**2.9 Transported Quantities**

- (a) The amount of Energy allocated to Shipper's Receipt Transportation Service by the CSO at the Point of Receipt, less Fuel Gas and Unaccounted for Gas, where applicable, will be delivered to Shipper's Imbalance Account at TEP, with the exception of Point-to-Point Transportation Service (Undiverted).
- (b) For Point-to-Point Transportation Service (Undiverted), the amount of Energy Nominated on this Service, at the Point of Delivery, will be delivered to the Point of Delivery as outlined on the TransGas Contract. The Nomination at the Point of Receipt shall equal the Nomination at the Point of Delivery plus Fuel

Gas and Unaccounted for Gas where applicable.

In the event a Point-to-Point Transportation Service Customer wishes to Divert the Energy to Shipper's Imbalance Account at TEP, the Allocated amount of Energy will be prioritized as follows:

- 1) Nomination for Point-to-Point (Diverted),
  - 2) Nomination for Point-to-Point (Undiverted).
- (c) For intra-Provincial Delivery Transportation Service, the amount of Energy metered for the period at the Point of Delivery shall be moved from Shipper's Imbalance Account at TEP.
- (d) For export Delivery Transportation Service, the amount of Energy Nominated for the period at the Point of Delivery shall be moved from Shipper's Imbalance Account at TEP.

### **ARTICLE 3 – HEATING VALUE OF GAS**

#### **3.1 Energy Units**

Transportation and Storage quantities under this Tariff shall be in Energy (GJs). Volumes shall be converted to Energy using the applicable Heating Value.

#### **3.2 Actual Heating Value**

At the end of each Month, TransGas shall determine the Actual Heating Value of Gas for the Month, for the purposes of the Tariff.

### **ARTICLE 4 - ENERGY BALANCE**

#### **4.1 Estimated Daily Shipper Imbalance**

On each Day, TransGas will determine the Estimated Daily Shipper Imbalance on Shipper's Imbalance Account(s) using the Best Available Energy. TransGas shall provide the Estimated Daily Shipper Imbalance to Customer for daily Balancing purposes.

For TEP Service, the Estimated Daily Shipper Imbalance will be the total Gas received into the Shipper's Imbalance Account in a period less the total Gas delivered out of the Shipper's Imbalance Account for that period plus the Opening Balance at the beginning of the period.

For Point-to-Point Transportation Service, the Estimated Daily Shipper Imbalance will be the amount of Energy allocated by the CSO at the Point of Receipt, in a period, less Fuel Gas and Unaccounted for Gas where applicable, and less the Energy delivered to the Point of Delivery for that period plus the Opening Balance at the beginning of the period.

#### 4.2 Daily Tolerance Level

On each Day, TransGas shall provide Customer with Shippers' Tolerance Percentage. The Shippers' Tolerance Percentage will be expressed as a percentage to be applied to Shipper's Imbalance Account activity to determine Shipper's Allowable Daily Tolerance (in GJs). The difference between the minimum and maximum tolerance will be 20 percentage points, with the range not to fall above plus 20 or below minus 20.

#### 4.3 Shipper's Balancing Obligation

Shipper shall ensure that the Customer Daily Energy Imbalance on Shipper's Imbalance Account(s) is within the Shipper's Allowable Daily Tolerance, given the following:

- (a) Customer's Daily Energy Imbalance shall be the sum of the Estimated Daily Shipper Imbalance on Shipper's Imbalance Account(s).
- (b) Shipper's Allowable Daily Tolerance shall be the Shippers' Tolerance Percentage, as determined by TransGas each Day, times Customer's Total Daily Activity on Shipper's Imbalance Account(s). TransGas shall provide Shipper's Allowable Daily Tolerance to Shipper prior to 08:00 hours CCT each Day.
- (c) Customer's Total Daily Activity will be the summation of the Daily Activity on all Shipper's Imbalance Account(s). The Daily Activity on Shipper's Imbalance Account(s) will be the estimated total Energy received into the Account(s) the previous Day plus the estimated total Energy delivered out of the Account(s) in the previous Day divided by 2.
- (d) Notwithstanding Clause 4.3(c), the minimum Customer's Total Daily Activity for determining Shipper's Allowable Daily Tolerance shall be 10,000 GJs, and the maximum Customer's Total Daily Activity for determining Shipper's Allowable Daily Tolerance shall be 100,000 GJs.

#### 4.4 Right to Restrict Flows

In the event Customer fails to meet the Shipper Balancing obligation, TransGas reserves the right to restrict flows at Points of Receipt and Delivery to ensure compliance.

#### 4.5 Operational Flow Orders (OFO)

TransGas may, in its absolute discretion, issue an Operational Flow Order to Shippers requiring them to be within a specified tolerance within a specified timeframe. **(See General Business Policies Section II.C3.0).**

#### 4.6 Monthly Energy Imbalances

The difference between the sum of the daily estimated quantities for the Month in a Shipper's Imbalance Account and the Monthly actual quantities in a Shipper's Imbalance Account, the Monthly Energy Imbalance, will be placed in the inactive area of Shipper's Imbalance Account(s).

#### 4.7 Active and Inactive Areas of Shipper's Imbalance Account

The Estimated Daily Shipper Imbalance, residing in Shipper's Imbalance Account(s), shall be located in the active area of the Shipper's Imbalance Account(s). The Monthly Energy Imbalances shall reside in the inactive area of Shipper's Imbalance Account and shall not immediately be included in Customer's Opening or Closing Balance.

Any imbalance, residing in the inactive area of Shipper's Imbalance Account(s), shall be prorated over the remaining number of Days in the Month. Subject to availability of information, TransGas will begin, on the 20<sup>th</sup> Day of the Month, to move the prorated amount to the active portion of Shipper's Imbalance Account(s) on a Daily basis.

Any adjustments to prior periods may, at TransGas' discretion, be added to the inactive area of Shipper's Imbalance Account(s).

#### 4.8 Error in Determining Imbalance

For a period not exceeding two (2) years, Customer has the right to question TransGas' determination of an Estimated Daily Shipper Imbalance or Monthly Energy Imbalance. In the event Customer can demonstrate to the reasonable satisfaction of TransGas that TransGas has made an error in determining an Estimated Daily Shipper Imbalance or Monthly Energy Imbalance at a particular time (the "TGL Error"), then:

- (a) TransGas shall retroactively adjust Customer's accounts accordingly to the date of the TGL Error; and
- (b) In the event TransGas discontinued, in whole or in part, making deliveries of Gas to Customer at the Point of Delivery as outlined in Clause 4.4 based on Customer Daily Energy Imbalance exceeding Shipper's Allowable Daily Tolerance, and save for the TGL Error, Customer Daily Energy Imbalance would not have exceeded Shipper's Allowable Daily Tolerance, then Customer shall receive a credit equal to the following:

Daily Energy but for the TGL Error less the Actual Delivery Energy	X	Demand Charges specified in the Tariff Rates and Charges Schedules
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## **ARTICLE 5 - QUALITY OF GAS**

### **5.1 Quality Requirements**

The Gas delivered by Customer or on behalf of Customer by its supplier to the Point of Receipt, entering the Gas Transmission System, and by TransGas at the Point of Delivery, leaving the Gas Transmission System, shall at all times comply with the following quality requirements:

- (a) Heating Value: the Gas delivered hereunder shall have an Actual Heating Value of not less than thirty five and no hundredths (35.00) MJ's per Cubic Meter.

On a non-precedent setting basis, and at the sole discretion of TransGas, Gas of a lower Heating Value than that specified in Clause 5.1(a) above, may be delivered to TransGas by or on behalf of Customer at the Point of Receipt. Customer may inject hydrocarbons to increase the Heating Value of the Gas to the minimum requirement provided however, that the Gas, with the injected hydrocarbons, meets all the Gas quality specifications outlined in this section. In the event that TransGas, at its sole discretion, agrees to accept Gas below an Actual Heating Value of thirty five (35.00) MJ's per Cubic Meter, TransGas' Low Heating Value Surcharge Service must be in place with the Common Stream Operator of the Point of Receipt.

In the event that the transport Customer (Shipper) delivers Gas during any period with an Actual Heating Value below thirty five (35.00) MJ's per Cubic Meter and there is not a Firm Low Heating Value Surcharge Service in place or where there is a Short Term Firm Low Heating Value Surcharge Service and TransGas has not provided pre-authorization to deliver low Heating Value Gas under that Service during that period, transport Customer will be subject



to a Low Heating Value Unauthorized Surcharge on all Gas received during that period based on the Actual Heating Value of the Gas received during that period at the fee set forth in the Tariff Rates and Charges Schedules. Charging the Low Heating Value Unauthorized Surcharge will not remove the transport Customers' obligation to deliver Gas with a minimum Heating Value of thirty five (35.00) MJ's per Cubic Meter nor will it restrict TransGas from any other remedies under the Tariff to enforce this Gas quality specification.

- (b) Freedom from Objectionable Matter: The Gas delivered by Customer or on behalf of Customer by its supplier or by TransGas hereunder:
- (i) Shall be commercially free from sand, dust, gums, liquids, oils, impurities and other objectionable substances which may become separated from the Gas and cause injury, cause damage to or interfere with the operation of the Gas Transmission System or Storage Facilities, or which may interfere with the commercial utilization of the Gas.
  - (ii) Shall not have a hydrocarbon dewpoint in excess of minus ten (-10°) degrees Celsius at operating pressure.
  - (iii) Shall not contain more than six (6) milligrams of hydrogen sulfide per one (1) Cubic Meter of Gas.
  - (iv) Shall not contain more than twenty-three (23) milligrams of total sulfur per one (1) Cubic Meter of Gas.
  - (v) Shall not contain more than six (6) milligrams of mercaptan sulfur per one (1) Cubic Meter of Gas, at the Point of Receipt, and at the Point of Delivery, subject only to the provisions of Clause 10.19.1 of Canadian Standards Association (CSAZ184-M92 as amended), regarding odorization of Gas, where applicable.
  - (vi) Shall not contain more than fifteen (15) millilitres of nitric oxide per one (1) Cubic Meter of Gas.
  - (vii) Shall not contain more than fifteen (15) millilitres of total oxides of nitrogen per one (1) Cubic Meter of Gas.
  - (viii) Shall not contain more than two percent (2%) by volume of carbon dioxide.
  - (ix) Shall be as free of oxygen as Customer or its Agent can keep it through the exercise of all reasonable precautions and shall not in any event contain more than four-tenths of one percent (0.4%) by volume of oxygen.
  - (x) Shall have been dehydrated, if necessary, for removal of water present therein in a vapor state, and in no event contain more than sixty-five (65) milligrams of water vapor per one (1) Cubic Meter of Gas, when measured at a pressure of one hundred and one and three hundred and

twenty-five thousandths (101.325) kilopascals absolute and a temperature of fifteen degrees (15°) Celsius.

- (xi) Shall not exceed a temperature of fifty degrees (50°) Celsius at the Point of Receipt hereunder.

(c) Gas Quality at Interconnecting Pipelines

Notwithstanding the provisions of Clause 5.1(a) and (b), if the Gas being received by TransGas is required, at TransGas' discretion, to operationally flow into an interconnecting pipeline, which has different quality specifications than those contained in Clause 5.1(a) and (b), TransGas, at its sole discretion, may require the Customer to deliver Gas with the quality specifications identical to those of the interconnecting pipeline. TransGas reserves the right to require Customer to meet such quality specifications upon three (3) Months' written notice to Customer.

(d) Natural Gas Interchangability Indices: The Gas delivered by Customer on or behalf of Customer by its supplier to the Point of Receipt shall conform to the following specifications:

- (i) The minium Wobbe Index of the Gas shall be 46.75 MJ/M<sup>3</sup>
- (ii) The maximum Wobbe index of the Gas shall be 50.60 MJ/M<sup>3</sup>

On a non-precedent setting basis, and at the sole discretion of TransGas, Gas of a lower or higher Wobbe Index than that specified in Clause 5.1 (d) above, may be delivered to TranGas or on behalf of Customer at the Point of Receipt.

5.2 Failure of Customer to Meet Quality Requirements

TransGas may at any time make tests of the Gas being delivered to TransGas at the Point of Receipt hereunder to determine whether the Gas complies with the quality requirements as set forth in the Tariff. TransGas shall have the right, either by notice provided to the Customer or by automated shutoff through an automatic shutoff valve, to require Customer to remedy any deficiency, within such reasonable time as specified by TransGas, in the quality of the Gas and, in the event such deficiency is not remedied, the right to require Customer to discontinue deliveries hereunder, or continue the automatic discontinuance of deliveries hereunder, until such deficiency is remedied. During the period of such discontinuance, Customer shall continue to pay the Demand Charges specified in the Tariff Rates and Charges Schedules and any other applicable charges or cost set out in the Tariff.

**5.3 Failure of TransGas to Meet Quality Requirements**

Customer may at any time request TransGas to make tests of the Gas being delivered at the Point of Delivery hereunder in accordance with Article 6 (Measurement of Gas) and Article 7 (Standards of Measurement and Tests) to determine whether the Gas complies with the quality requirements as set forth in Clause 5.1. Customer shall have the right, by notice in writing, to require TransGas to remedy any deficiency, found during such tests, within such reasonable time as specified by Customer, in the quality of the Gas and, in the event such deficiency is not remedied, the right to discontinue taking deliveries hereunder until such deficiency is remedied. During the period of such discontinuance, Customer is not obliged to pay the Demand Charges specified in the Tariff Rates and Charges Schedules, or any other charges or costs set out in the Tariff.

**5.4 Resumption of Service**

Where the Customer deliveries at the Point of Receipt are discontinued by means of notice or automated shutoff due to failure to comply with the quality requirements as set forth in Clause 5.1, the Customer, having remedied the deficiency to the satisfaction of TransGas, acting reasonably, shall request in writing a return to deliveries and TransGas shall return to deliveries with due diligence. For any period after receipt of such written request exceeding 24 hours in which TransGas fails to return to deliveries and provided the deficiency has been remedied to the satisfaction of TransGas, acting reasonably, the Customer shall not be required to pay the Demand Charges specified in the Tariff Rates and Charges Schedules.

**5.5 Customer Equipment and Procedures**

Customer covenants and agrees that the necessary monitoring, scrubbing and shutdown equipment will be installed and that correct operating procedures will be followed to ensure that all objectionable matter as required in this Article 5 has been removed prior to delivery of Gas into the Gas Transmission System and Storage Facilities.

**ARTICLE 6 - MEASUREMENT OF GAS**

The measurements and tests of the Gas delivered hereunder shall be governed by the following:

**6.1 Equipment for Official Reporting**

Where the Customer has installed its own measuring and testing equipment, the measuring and testing equipment installed by TransGas shall be used for official reporting and billing purposes hereunder.

**6.2 Measurement Equipment**

Measuring equipment shall be defined as the equipment required for the determination of the volume of Gas measured. (i.e. meters and flow computers). Testing equipment shall be defined as the equipment required for the determination of the quality of Gas measured. (i.e. samplers, chromatographs).

**6.3 Compliance with Standards**

All measuring and testing equipment, devices and materials required herein shall be of a type approved for their intended use under the provisions of the *Electricity and Gas Inspection Act* R.S.C. Chapter E-4, 1985 (the "EGI Act") and Regulations thereto as amended.

Pursuant to the EGI Act and Measurement Canada Bulletin G-14 ("G-14"), Measurement Canada ("MC") has given conditional permission for Point of Receipt sites to be considered Low Intervention Trade Transaction sites ("LITT Sites") where the use of gas metering equipment without verification and sealing is permitted at the Low Intervention Trade Transaction level. Notwithstanding anything else herein, the following shall apply at LITT Sites:

- (a) The Low Intervention Trade Transactions are subject to the provisions and conditions listed in G-14, a copy of which may be viewed on MC's website;
- (b) The Customer agrees that the gas metering equipment at LITT sites has been initially calibrated and will be periodically recalibrated (and reprogrammed where necessary), in accordance with the process outlined in Clause 6.6 herein;
- (c) Any measurement disputes arising between the Customer and TransGas shall be resolved in accordance with the provisions of Clause 6.7 herein;

- (d) The Customer and TransGas acknowledge that the conditional permission granted by MC may restrict MC's ability to successfully conclude a measurement dispute investigation, if MC's involvement were to be requested; and
- (e) The Customer and TransGas agree to the implementation of Low Intervention Trade Transactions in accordance with G-14 and either the Customer or TransGas has the right to request a revocation of the conditional permission for Low Intervention Trade Transactions in accordance with G-14.

#### 6.4 Check Measuring Equipment

All related equipment, appliances and buildings shall be installed, maintained and operated, or furnished by TransGas. Customer may install and operate or may cause its supplier to install and operate measuring and testing equipment, which shall not interfere with the operation of the Gas Transmission System or Storage Facilities.

#### 6.5 Verification

The accuracy of TransGas' measuring and testing equipment shall be verified in accordance with the Act and Regulations referred to in Clause 6.3 herein.

#### 6.6 Requests for Testing

TransGas and/or the Customer may request testing of the accuracy of the measuring and testing equipment. Notice of the time and nature of each test to be conducted at the point of measurement shall be given by TransGas to Customer sufficiently in advance to permit Customer's representative to be present. Tests and adjustments shall be made in the presence of and observed by representatives of both TransGas and Customer. All tests of such measuring and testing equipment shall be made at TransGas' expense, except that Customer shall bear the expense of tests made at Customer's request if the inaccuracy in the measurement of the amount of Gas or Heating Value of the Gas is less than the amount specified in Clause 6.7(a) hereof. If at any time any of the measuring or testing equipment is found to be out of service or registering inaccurately, it shall be adjusted at once to read as accurately as possible. The amount of Gas or Heating Value of the Gas desired to be measured or tested during the period in which such equipment was registering inaccurately or was out of service shall be estimated by:

- (a) using the data recorded by any check measuring equipment installed and accurately registering, or

- (b) if such check measuring equipment is not installed or is not registering accurately, by correcting the error by calibration tests or mathematical calculations, or
- (c) if the methods provided in Clause 6.6(a) and (b) cannot be used, by estimations based upon deliveries under similar conditions during the period in which the equipment was registering accurately.

#### 6.7 Correction of Measurement Error

If the period in which such equipment was registering inaccurately or was out of service is not known or agreed upon it shall be deemed to have been registering inaccurately or out of service for a period of one-half (1/2) of the elapsed time since the last test.

If it is determined in accordance with the foregoing that during such period:

- (a) the Gas measurement at the average hourly rate of flow is in error in an amount exceeding two percent (2%), or
- (b) the Heating Value measurement is in error in an amount exceeding one-half of one percent (1/2 of 1%),

then the previous readings of the measurement equipment or the recording calorimeter, as the case may be, shall be corrected to zero (0) error in the manner set forth above and all records and billings for such a period recalculated according to zero (0) error. No corrections in the records or billings shall be made for errors less than the limits specified above.

#### 6.8 Inspection of Equipment and Records

TransGas and Customer shall have the right to inspect equipment installed or furnished by the other, and the meter data and other measurement or testing data of the other at all times during business hours; but the reading, calibration and adjustment of such equipment shall be done only by the Person installing and furnishing the same. Measurement data, test data and other similar records shall be retained for the periods specified in accordance with the Act and Regulations referred to in Clause 6.3 herein, for the official custody transfer measurement devices.

**ARTICLE 7 - STANDARDS OF MEASUREMENT AND TESTS**

The standards of measurement and tests for the Gas delivered hereunder shall be governed by the following:

**7.1 Unit of Measurement**

The unit of volume for purposes of measurement shall be one (1) Cubic Meter and converted to Energy using the Actual Heating Value. The unit of Energy shall be one (1) Joule.

**7.2 Measurement Equipment**

All instruments and apparatus used for determining volume, pressure, temperature, relative density and total Heating Value shall be of a type approved for their intended use under the provisions of the Electricity and Gas Inspection Act, (supra) where such approvals are required. All measurements, calculations and procedures used in determining the volume hereunder shall be made in accordance with the Electricity and Gas Inspection Act, (supra) and all applicable regulations issued pursuant thereto.

**7.3 Compliance with Standards**

Except as herein before set forth, in the event of any conflict between a provision of this Tariff and the Electricity and Gas Inspection Act, (supra) related to the measurement and testing of Gas, the provisions of the Electricity and Gas Inspection Act, (supra) as it is in force and effect from time to time, shall prevail.

**7.4 Determination of Relative Density**

The relative density of the Gas delivered hereunder shall be determined at TransGas' option, either:

- (a) by a recording Gas gravitometer installed, operated and maintained by TransGas in which case the arithmetic average of readings recorded each Day shall be deemed to be the relative density of, and shall be used in computing the volume of Gas delivered during such Day, or

- (b) by tests conducted by TransGas on samples of such Gas. The Gas samples to be tested may be either spot samples or continuous samples, but shall be taken in such a manner and at such times to ensure that the samples taken and tested are representative of the Gas delivered hereunder. Tests shall be concurrent with the measurement of the Gas delivered or if only one such test be made during a particular Month, the figure resulting from such test shall have effect upon the first Day of the Month next succeeding the Month in which such test was made, or if more than one such test be made during a particular Month, the results of such tests shall be averaged to the nearest one one-thousandth (.001) and the resulting figure shall likewise have effect upon the first Day of the Month next succeeding the Month in which such tests were made, PROVIDED that the figure resulting from the first test or tests made during the first Month shall also have effect during the first Month. Upon a figure having effect, the same shall remain in force and effect until the effective date of the next succeeding figure and each figure, during the period in which it has effect, shall be deemed to be the relative density of all Gas delivered during such period.

#### 7.5 Determination of Temperature and Pressure

The flowing temperature and pressure of the Gas shall be determined by means of a temperature and pressure recorder approved in accordance with Clause 6.3 herein. The temperature and pressure recorder shall be installed and maintained by TransGas. The average of temperature and pressure readings recorded each Day shall be used in computing the volumes of Gas delivered during such Day.

#### 7.6 Determination of Actual Heating Value

The Actual Heating Value of the Gas delivered hereunder shall be determined at TransGas' option, either by:

- (a) the use of a standard recording calorimeter or chromatograph installed, operated and maintained by TransGas, in which case the Actual Heating Value of the Gas delivered each Month shall be determined by weighing volumetrically the continuous Heating Values provide by the device, or



- (b) tests of samples of such Gas collected by TransGas. The Gas samples to be tested may be either spot samples or continuous samples but shall be taken in such a manner and at such times to ensure that the samples taken and tested are representative of the Gas delivered hereunder. Tests shall be concurrent with measurement of the Gas delivered and if more than one such test was made during a particular Month, the results of such tests shall be averaged to the nearest one-one hundredth (.01) MJ per Cubic Meter and the resulting figure shall be used for the Month during which such tests were made.

#### 7.7 Pulsation Dampening

If there are any compression facilities upstream from the Point of Receipt, Customer shall cause to be provided sufficient pulsation dampening equipment to ensure that the compression facilities do not interfere with the operation of TransGas' facilities.

### **ARTICLE 8 - LIABILITY AND INDEMNITY**

- 8.1 Subject to the other provisions contained in this Tariff, Customer shall be liable to TransGas for all claims, damages, expenses, liabilities and losses whatsoever which TransGas may bear, sustain, pay, incur, or suffer as a result of or in connection with any act, omission or default on the part of Customer with respect to any of its obligations assumed under the provisions of this Tariff.
- 8.2 Customer shall indemnify and save harmless TransGas of and from all manner of actions, causes of action, proceedings, claims, demands, losses, costs, damages and expenses whatsoever which may be brought or made against TransGas or which TransGas may sustain, pay or incur as a result of or in connection with any act, omission or default on the part of Customer with respect to any of its obligations assumed under the provisions of this Tariff, or as a result of the negligence of Customer, its employees, agents or contractors. In the event any such manner of action, cause of action, proceeding, claim, demand, loss, cost, damage or expense is caused by the concurrent default or negligence of TransGas or by the failure of TransGas to perform and observe its obligations under the provisions of this Tariff, Customer shall be relieved of its obligation to indemnify TransGas to the extent such manner of action, cause of action, proceeding, claim, demand, loss, cost, damage or expense was caused by such concurrent default, negligence or failure to perform.

- 8.3 Subject to the other provisions contained in this Tariff, TransGas shall be liable to Customer for all claims, damages, expenses, liabilities and losses whatsoever which Customer may bear, sustain, pay, incur or suffer as a result of or in connection with any act, omission or default on the part of TransGas with respect to any of its obligations assumed under the provisions of this Tariff.
- 8.4 TransGas shall indemnify and save harmless Customer of and from all manner of actions, causes of action, proceedings, claims, demands, losses, costs, damages and expenses whatsoever which may be brought or made against Customer or which Customer may sustain, pay or incur as a result of or in connection with any act, omission or default on the part of TransGas with respect to any of its obligations assumed under the provisions of this Tariff, or as a result of the negligence of TransGas, its employees, agents or contractors. In the event any such manner of action, cause of action, proceeding, claim, demand, loss, cost, damage or expense is caused by the concurrent default or negligence of Customer or by the failure of Customer to perform and observe its obligations under the provisions of this Tariff, TransGas shall be relieved of its obligation to indemnify Customer to the extent such matter of action, cause of action, proceeding, claim, demand, loss, cost, damage or expense was caused by such concurrent default, negligence or failure to perform.
- 8.5 Notwithstanding the provisions of Clauses 8.1 and 8.2 or any other provision of this Tariff, in no event shall Customer be liable to TransGas for claims by TransGas' other customers for loss of anticipated profits or revenues, loss by reason of plant or other facility shutdown or for any special or consequential loss or damage of any nature whether similar or dissimilar to those enumerated above arising at any time or from any cause whatsoever.
- 8.6 Notwithstanding the provisions of Clauses 8.3 and 8.4 or any other provision of this Tariff, in no event shall TransGas be liable to Customer for loss of anticipated profits or revenues, loss by reason of plant or other facility shutdown, cost of purchased or replacement Gas or other alternative forms of fuel, claims of Customer's customers or for any special or consequential loss or damage of any nature, whether similar or dissimilar to those enumerated above, arising at any time or from any cause whatsoever.

**ARTICLE 9 - TERM OF SERVICE****9.1 Commencement and Termination of Service**

Subject to the Service Specifications of a particular Service, Service shall commence as of the Effective Date and end on the Expiry Date set out on the TransGas Contract. This Service shall continue in effect for an Initial Term as set forth in the TransGas Contract, and will be subject to the Renewal Rights as outlined in the General Business Policies (Section II F1.0) and in the Service Specification of the Tariff.

**9.2 Obligations upon Termination**

In the event the Service is terminated by Customer for any reason whatsoever, other than Customer's termination of the Service due to a TransGas default pursuant to the Tariff or by giving notice pursuant to Clause 9.1, then Customer shall within thirty (30) Days of such termination, pay to TransGas a sum equal to all charges that remain payable over the term of the Service, including without limitations, the Demand and Basic Monthly Charges specified in the Tariff Rates and Charges Schedules, and any amounts payable for the Customer Specific Facilities. Any amounts payable in the future would be discounted at a rate equal to the prime rate of the Royal Bank of Canada, Regina, Main Branch, plus two (2%) percent.

This Clause 9.2 shall survive the expiration or termination of a Service.

**9.3 Items Surviving Beyond Termination**

Notwithstanding the termination of a Service by expiration of the term or otherwise, provisions in respect of audit rights, settlement of accounts and liabilities accrued prior to such termination or in consequence thereof shall survive such termination.

**ARTICLE 10 - LOST GAS, FUEL GAS AND UNACCOUNTED FOR GAS****10.1 Lost Gas**

TransGas shall not be liable to Customer for Customer's Lost Gas, but shall maintain and provide to Customer a record of Customer's proportionate share of any Lost Gas and co-operate with all reasonable requests of Customer's insurers or its agents during the course of the investigation of any claim arising from any such Lost Gas after Force Majeure.

For the purpose of Clause 10.1 "Customer's proportionate share" shall be that percentage of Lost Gas which is equal to the percentage of Customer's Gas in the portion of the Gas Transmission System where the amount of Lost Gas occurred so far as this can be reasonably determined by informed estimates at the time of Force Majeure.

**10.2 Fuel Gas**

Customer shall cause to be delivered to TransGas at the Point of Receipt, where the Gas enters the Gas Transmission System, Customer's share of Fuel Gas. Customer's share of the Fuel Gas shall be as stipulated in the Tariff Rates and Charges Schedule, which share shall be subject to review, verification and adjustment by TransGas from time to time.

**10.3 Unaccounted for Gas**

Customer shall cause to be delivered to TransGas at the Point of Receipt, where the Gas enters the Gas Transmission System, Customer's share of Unaccounted for Gas from TransGas' Gas Transmission System (excluding Lost Gas referred to in Clause 10.1). Customer's share of the Unaccounted for Gas shall be as stipulated in the Tariff Rates and Charges Schedule, which share shall be subject to review, verification and adjustment by TransGas from time to time.

**ARTICLE 11 - RATES AND OTHER CHARGES****11.1 Service Charges**

Commencing with the First Month and continuing for the term of the Service, Customer shall pay to TransGas all applicable Service charges set forth in the Tariff Rates and Charges Schedules or such other charges as may be approved from time to time by TransGas or set by any regulatory body having jurisdiction as provided for in the Tariff.

**11.2 Customer Contributions**

With respect to Customer Specific Facilities, Customer agrees to pay to TransGas the sum detailed on the TransGas Contract towards the capital cost of providing the Customer Specific Facilities. Notwithstanding this payment, the facilities necessary to provide Service to the Customer, including the Customer Specific Facilities, shall remain the sole property of TransGas and TransGas shall be solely responsible for the operation and maintenance of such facilities.

**11.3 Security Requirements**

TransGas reserves the right, prior to entering into a Service with a Customer and at any other time during the term of any Service, to require Customer to post security, of a type, form and amount reasonably acceptable to TransGas. Such security shall be provided within thirty (30) Days of Customer's receipt of written notice from TransGas. In the event that Customer fails to provide this security within thirty (30) Days of receipt of notice, TransGas shall have the option to either refuse to enter into a Service with the Customer, terminate the Service, or suspend Service to the Customer pending satisfactory provision of the security. In the event of termination, the remedies available to TransGas as set forth in Clause 15.1(c) shall apply, mutatis mutandis. Notwithstanding any suspension of Service under this provision, Customer shall be obligated to pay all charges accruing under the Service.

**11.4 Additional Taxes and Charges**

If during the term of any Service, any sales, excise, franchise or revenue tax or taxes of similar nature or equivalent in effect shall be imposed by any authority on the Gas delivered or the Service provided hereunder, such that TransGas shall be required to pay such tax, then the tariffs and charges payable hereunder by Customer to TransGas shall be increased by the amount of such tax.

**ARTICLE 12 - BILLINGS AND PAYMENTS**

## 12.1 Billing

TransGas shall render by transmitting or delivering by mail, fax (telecopier) or other electronic means or by hand to Customer an invoice setting forth the particulars of amounts payable by Customer to TransGas for Service provided in the previous Month. TransGas and Customer agree that this invoice constitutes an invoice for the purposes of billing. TransGas will endeavor to provide the invoice on or before the twentieth (20th) Day of each Month.

## 12.2 Payment

Customer agrees that the date of invoicing shall be the date of mailing, faxing or other electronic transmission. Customer agrees to pay TransGas within fifteen (15) Days of receipt by Customer the total amount payable by Customer as set forth in the invoice. Each such payment shall be delivered to TransGas at its office in Regina, Saskatchewan. Any invoice sent by mail shall be deemed to have been received by Customer on the second Day following deposit into the mail. In the event that such invoice is delivered personally to Customer, by fax (telecopier), or by other electronic means such invoice shall be deemed to have been received by Customer immediately upon delivery thereof.

## 12.3 Interest on Unpaid Amounts

TransGas shall have the right to charge interest on the unpaid portion of any invoice commencing from the date payment is due until the date payment is actually made at a rate of interest which has been approved by TransGas' Board of Directors or other body having jurisdiction.

## 12.4 Disputed Bills

In the event that Customer disputes any part of any invoice, Customer shall nevertheless pay to TransGas the full amount of the invoice when payment is due. If the dispute is not resolved within sixty (60) Days of receipt of written notice of the dispute by TransGas, then Customer may request in writing that TransGas, and upon receipt of such notice TransGas shall, hold all disputed sums in an escrow account kept for that purpose at a reputable financial institution and such sums shall remain in escrow until resolution of the dispute. Customer shall pay the reasonable costs incurred by TransGas to establish and maintain the required escrow account should such a notice requesting deposit into escrow be received by TransGas from Customer.

**12.5 Right to Suspend Service**

In the event Customer fails to pay the full amount of any invoice within thirty (30) Days after payment is due, TransGas, in addition to any other remedy it may have, may upon giving Customer seven (7) Days' advance notice in writing suspend the Customer's Service until full payment is made. Notwithstanding the fact that TransGas has suspended the Service, Customer shall remain obligated to pay TransGas for any charges due under that Service.

**12.6 Correction of Billing Errors**

In the event that it is finally determined that any invoice prepared was incorrect and an overpayment has been made, Customer shall be entitled to interest on the amount of any such overpayment at the rate of interest which is equal to two (2%) percent per annum above the prime bank interest rate per annum charged by the Royal Bank of Canada, Regina, Main Branch, which is in effect on the date any such overpayment was made from the date of such overpayment until the date that TransGas makes reimbursement of such overpayment to Customer.

**12.7 Record Retention**

For a period of up to two (2) years, each Person shall have the right to inspect and examine at all reasonable times the records and measurement information of the other Person pertaining to the Service.

**ARTICLE 13 - FORCE MAJEURE****13.1 General Provisions**

Subject to the other provisions of the Tariff, if either the Customer or TransGas fails to observe or perform any of the covenants or obligations herein imposed upon it and such failure shall have been occasioned by, or in connection with, or in consequence of Force Majeure, as hereinafter defined, such failure shall be deemed not to be a breach of such covenants or obligations.

**13.2 Events of Force Majeure**

For the purposes of this Tariff, the term "Force Majeure" shall mean any cause not reasonably within the control of the Person claiming Force Majeure, which by the exercise of due diligence, such Person is unable to prevent or overcome, including but without limiting the generality of the foregoing:

- (a) lightning, storms, earthquakes, landslides, floods, washouts and other acts of God;
- (b) fires, explosions, ruptures, breakages or accidents to machines or lines of pipe;
- (c) freezing of pipelines or wells, hydrate obstructions of pipelines or appurtenances thereto, temporary failure of Gas supply;
- (d) civil disturbances, sabotage, acts of public enemies, wars, blockades, insurrections, vandalism, riots, epidemics;
- (e) arrests and restraints of governments and people;
- (f) shortages of necessary labour due to strikes, lockouts or other industrial disturbances;
- (g) the order of any court, government body or regulatory body;
- (h) inability to obtain, curtailment of supplies, or disruption or failure of electric power, water, fuel, telecommunications or other utilities or services;
- (i) inability to obtain, curtailment of supplies, or disruption or failure of any other materials or equipment;
- (j) inability to obtain or revocation or amendment of any permit, license, certificate or authorization or any governmental or regulatory body, unless the revocation or amendment of such permit, license, certificate or authorization was caused by the violation of the terms thereof or consented to by the Person holding the same;
- (k) any claim by any third Person that any covenant or obligation of such third Person is suspended by reason of Force Majeure, including without limiting the generality of the foregoing, any such claim by any transporter of Gas to, from or for TransGas or Customer; and
- (l) any other cause, whether herein enumerated or otherwise, not reasonably within the control of the Person claiming Force Majeure, excluding, however, lack of funds or economic cause and which by the exercise of due diligence such Person is unable to prevent or overcome.



### 13.3 Non-Force Majeure Events

Neither Person shall be entitled to the benefit of the provisions of Clause 13.2 hereof under any or all of the following circumstances:

- (a) to the extent that the failure is due to a negligent act or omission, breach of contract, violation of law, violation of the terms of a regulatory approval or similar wrongful act or omission on the part of the Person seeking to claim such event as an event of Force Majeure;
- (b) to the extent that the failure was caused by the Person claiming Force Majeure having failed to remedy the condition, and to resume the performance of such covenants or obligations, with reasonable dispatch;
- (c) if the failure was caused by a lack of financial resources or available funds or similar financial predicament, or an event the occurrence or subsistence of which is due to the financial inability of the Person seeking to claim such event as an event of Force Majeure to pay any amount which a prudent and financially sound entity in similar circumstances would reasonably be expected to pay to avoid or discontinue such event;
- (d) unless immediately after the happening of the occurrence relied upon or as soon as possible after determining that the occurrence was in the nature of Force Majeure and would affect the claiming Person's ability to observe or perform any of its covenants or obligations under this Tariff, the Person claiming Force Majeure shall have given to the other Person notice, in accordance with the provisions of Clause 13.4, to the effect that such Person is unable by reason of Force Majeure (the nature whereof shall be therein specified) to perform the particular covenants or obligations;
- (e) unless the Person claiming Force Majeure immediately commences and diligently pursues the taking of all such steps as may be reasonable in the circumstances to cause the discontinuance of and to minimize the effect of, the event of Force Majeure, provided that neither Person shall be required by the provisions hereof to settle any strike, lockout or other labour dispute on terms which it would not otherwise be willing to agree to; and
- (f) notify the other Person forthwith upon the occurrence of any significant development in the process of attempting to discontinue and minimize the effect of the event of Force Majeure.

**13.4 Notice of Force Majeure**

Where by reason of Force Majeure either Person is wholly or partially prevented from carrying out any of its obligations under the Tariff, the Person affected shall immediately give written notice in accordance with the Tariff notice provisions indicating:

- (1) that a circumstance of Force Majeure exists;
- (2) the nature of the said Force Majeure;
- (3) the extent to which the said Force Majeure affects the claiming Person's performance of any of its obligations under the TransGas Service Agreement; and
- (4) the estimated probable duration of said Force Majeure.

**13.5 Obligations Under Force Majeure**

In the event that notice of Force Majeure is given in accordance with Clause 13.4, and the Person receiving such notice agrees to the existence of and extent to which such obligations of the claiming Person are affected by said Force Majeure, the obligations of the Person affected shall be suspended to the extent and for the period of the time that the performance of same is prevented by said Force Majeure, and neither Person shall be liable to the other for any direct or indirect damages, losses, costs or expenses resulting from or consequent upon said Force Majeure or the giving of notice of Force Majeure. Notwithstanding the foregoing, in the case of a Force Majeure claim by the Customer, TransGas reserves the right to exercise its discretion in agreeing to the existence and extent of the Force Majeure claim. Such discretion will be exercised based upon the efforts of the Customer to prevent the Force Majeure, and to rectify the Force Majeure.

**13.6 Notice of Termination of Force Majeure**

The Person claiming suspension shall likewise give notice forthwith after the Force Majeure condition shall have been remedied, to the effect that the same has been remedied and that such Person has resumed, or is then in a position to resume the performance of such covenants or obligations. Failure to provide prompt written notice of the end of the Force Majeure condition shall result in TransGas deeming the end of the Force Majeure condition, and such decision shall be final and binding.

**13.7 Strikes and Lockouts**

Notwithstanding anything to the contrary in this Article 13 expressed or implied, the Persons agree that the settlement of strikes, lockouts and other industrial disturbances shall be entirely within the discretion of the Person involved therein and such Person may make settlement thereof at such time and on such terms and conditions as it may deem to be advisable and no delay in making such settlement shall deprive such Person of the benefits of Article 14 hereof.

**13.8 Force Majeure Events exceeding Three Months**

In the event that it is anticipated that the event of Force Majeure will be in effect for a period in excess of three (3) Months, TransGas will, upon receipt of a request from Customer, meet with Customer for the purpose of reviewing the circumstances surrounding the event of Force Majeure.

**13.9 Addresses of Participants**

For the purposes of this Article 13, notices required to be served shall be served on TransGas at the address listed for TransGas and for Customer at the addresses stipulated in the TransGas Service Agreement.

**ARTICLE 14 - ARBITRATION****14.1 General Principles**

With the exception of disputes arising under Articles 8, 12, 13, 17, and 19, all other disputes arising out of the provision of Service under the Tariff shall be submitted to arbitration. The following principles shall apply to such arbitration:

**(a) Appointment of Arbitrator(s)**

Upon written demand of either Person, the Persons shall meet and attempt to appoint a single arbitrator. If the Persons are unable to agree on a single arbitrator then upon written demand of either Person and within ten (10) Days of such demand each Person shall name an arbitrator and the two arbitrators so named shall promptly thereafter choose a third. If either Person shall fail to name an arbitrator within ten (10) Days from such demand, then the second arbitrator shall be appointed by any Justice of the Court of Queen's Bench of Saskatchewan. If the two arbitrators shall fail within ten (10) Days from their appointment to agree upon and appoint the third arbitrator, then upon written application by either Person such third arbitrator shall be appointed by any Justice of the Court of Queen's Bench of Saskatchewan.

(b) Arbitrator's Qualifications

The arbitrator or arbitrators selected to act hereunder shall be qualified by education and training to pass upon a particular question in dispute.

(c) General Process

The single arbitrator or arbitrators so chosen shall proceed immediately to hear and determine the question or questions in dispute. The decision of the single arbitrator shall be made within forty-five (45) Days after his appointment subject to any reasonable delay due to unforeseen circumstances. The decision of the arbitrators, or a majority of them, shall be made within forty-five (45) Days after the appointment of the third arbitrator, subject to any reasonable delay due to unforeseen circumstances. Notwithstanding the foregoing, in the event the single arbitrator fails to make a decision within sixty (60) Days after his appointment or if the arbitrators, or a majority of them, fail to make a decision within sixty (60) Days after the appointment of the third arbitrator then either Person may elect to have a new single arbitrator or arbitrators chosen in like manner as if none had previously been selected.

(d) Arbitrator's Decision

The decision of the single arbitrator or the decision of the arbitrators, or a majority of them, shall be drawn up in writing and signed by the single arbitrator or by the arbitrators, or a majority of them, and shall be final and binding upon the Persons hereto as to any question or questions so submitted to arbitration, and the Persons shall be bound by such decision and perform the terms and conditions thereof provided however that either Person may appeal such decision to a judge of the Court of Queen's Bench in accordance with Section 14 of The Arbitration Act, 1992 of Saskatchewan, as amended.

(e) Cost Obligations

The cost of the arbitration shall be apportioned between the Persons as the single arbitrator or the three arbitrators may decide.

(f) Incorporation of Provisions of The Arbitration Act

Except where inconsistent with Section 45, the provisions of The Arbitration Act, 1992 of Saskatchewan as amended shall be applicable to any proceeding under this Clause 14.1.

(g) Service Obligations

Notwithstanding any disagreement or dispute arising out of the Service provided hereunder, which dispute has been referred to arbitration, there shall not be any cessation of Service by TransGas or of the payment by the Customer to TransGas for service, by reason of said dispute, and same shall continue as if there were no disagreement or dispute, unless otherwise agreed to or suspended.

## **ARTICLE 15 - TERMINATION UPON DEFAULT**

### 15.1 Failure to Perform

If either Person should fail to perform any of the covenants or obligations imposed upon it under and by virtue of Service under the Tariff (the "Defaulting Person"), then in any such event, the other Person (the "Non-Defaulting Person") may at its option terminate the Service by proceeding as follows:

(a) Notice of Default

The Non-Defaulting Person shall cause a notice in writing to be given to the Defaulting Person advising as to the nature of any default and declaring it to be the intention of the Non-Defaulting Person to terminate the Service.

(b) Remedy of Default

The Defaulting Person shall have ninety (90) Days after receiving any such notice to remedy the default specified and if, within the said period of ninety (90) Days, the Defaulting Person does remedy any such default to the satisfaction of the Non-Defaulting Person acting reasonably, then the notice given pursuant to Clause 15.1(a) shall be deemed to be withdrawn and the Service shall continue in full force and effect.

(c) Failure to Remedy by Customer

In the event that Customer does not remedy any default of which it has been given notice by TransGas to the satisfaction of TransGas within the said ninety (90) Day period, then the Service shall thereafter terminate and the appropriate charges for all Customer Specific Facilities, as well as the present value of all future Service, which would normally be incurred during the remaining term of the Service, discounted at a rate equal to the prime rate of the Royal Bank of Canada, Regina, Main Branch, plus two percent (2%) until the termination of the Service shall, subject to TransGas' Standard Investment Policy which is

in effect from time to time, become due and payable. All other rights and obligations of the Persons hereunder shall cease upon termination of the Service; PROVIDED however, that any such termination shall not affect any other remedy TransGas may have at law or in equity.

(d) Failure to Remedy by TransGas

In the event that TransGas does not remedy any default of which it has been given notice by Customer to the satisfaction of Customer within the said ninety (90) Day period, then the Service shall thereafter terminate. All other rights and obligations of the Persons hereunder shall cease upon the termination of the Service; PROVIDED however, that any such termination shall not affect any other remedy Customer may have at law or in equity.

(e) Failure to Agree

In the event the Persons hereto cannot agree on any matter with respect to a default, either Person shall have the right to refer the matter to arbitration in accordance with Article 14 (Arbitration) and any ninety (90) Day period referred to in this Article 15 shall not commence to run until any arbitration proceedings are completed.

## **ARTICLE 16 - IMPAIRED RECEIPTS OR DELIVERIES**

This Article is applicable to those impaired Receipts and Deliveries caused by planned outages and by repairs to existing facilities which are minor in nature and necessitating reduced abilities to receive or deliver Gas for short durations. These situations are not Force Majeure in nature, which are covered under Article 13 herein.

### 16.1 Notice of Curtailment

If by reason of the causes hereinafter set forth in this Article 16, TransGas is unable, in whole or in part, to receive or deliver the quantities of Gas provided for under a Service, then both TransGas and Customer shall be relieved of liability for not receiving or delivering such quantities during the Curtailment, and TransGas may curtail or discontinue receipts or deliveries of Gas hereunder during the continuance and to the extent of the inability; PROVIDED however, that TransGas shall endeavor to give reasonable notice of any Curtailment or discontinuance of receipts or deliveries arising by virtue of such causes and shall promptly endeavor to remedy the cause of any Curtailment or discontinuance of receipts or deliveries as soon as reasonably possible. Such notice shall specify TransGas' estimate of the duration of any such Curtailment or discontinuance of receipts or deliveries hereunder and the

maximum amount of Service that TransGas is able to provide during such period. The causes above referred to shall be:

- (a) the necessity, in TransGas' sole opinion, acting reasonably, of making modifications or improvements to the Gas Transmission System or Storage Facilities; PROVIDED however, that TransGas shall, when practicable, endeavor to effect such modifications or improvements, which are not Force Majeure in nature, at a time and in a manner which shall not unduly interfere or interrupt receipts or deliveries of Gas hereunder; or
- (b) the necessity of making repairs to the Gas Transmission System or Storage Facilities used to receive or deliver Gas hereunder; or
- (c) the necessity, in TransGas' sole discretion, acting reasonably, to curtail or interrupt receipts or deliveries in order to maintain service to Heating Load Customers, including, without limitation, the Heating Load Customers of SaskEnergy Incorporated, other than industrial Customers of TransGas.

#### 16.2 Pre and Post Deliveries

In the event of Impaired Receipts or Deliveries: re Planned Outages Only as described herein, TransGas shall exercise reasonable efforts to allow Customer to increase the amount of Gas delivered by or on behalf of Customer at the Point of Receipt to the extent of an impaired receipt or take the amount of Gas at the Point of Delivery to the extent of an impaired delivery, as the case may be, prior to or after the duration of the impairment.

#### 16.3 Demand Relief

In the event of Impaired Receipts or Deliveries: re Planned Outages Only as described herein, and the Customer does not exercise Customer's rights under Clause 16.2, Customer shall not be obligated to make payments other than for the period during which Service was provided. When such Service is reduced or curtailed, the Customer's Demand Charges shall be reduced in direct proportion to the reduction in TransGas' ability to receive or deliver the Contract Demand.

**ARTICLE 17 – CONFIDENTIALITY**

17.1 With the exception of the following:

- Customer Name
- Business Contact Information
- Receipt Location and Meter Code
- Delivery Meter Code
- Minimum / Maximum Contract Pressure
- Maximum Hourly Flow
- Common Stream Operator Name
- Any other information in general compliance with industry standards

TransGas and Customer shall treat as confidential all Information and shall use all reasonable, necessary and appropriate efforts to ensure that it does not, at any time, disclose or communicate to any third party (excluding its agents, professional advisors and employees) any Information without express authority in writing from the other Person unless required to do so by Legislation or by order of a court or regulatory body or unless such Information has otherwise become public knowledge; provided that in disclosing any Information to any third party, each Person shall be responsible to reasonably ensure that such Information is also treated as confidential by such third party. This Article 17 shall remain in force for the term of the Service and for a period of two (2) years after the expiration or termination of the Service Agreement or as otherwise agreed to by both parties.

**ARTICLE 18 - COMMON STREAM OPERATIONS**

18.1 In the event the Customer delivers Common Stream Gas to TransGas, the Customer hereby agrees to be bound by the terms and conditions of the Common Stream Operations Service, where applicable to the Customer, said terms and conditions set out in this Tariff, and any subsequent amendments, modifications, or renewals thereto.

**ARTICLE 19 - MISCELLANEOUS PROVISIONS**

19.1 TransGas Facilities

TransGas does not dedicate the Gas Transmission System and Storage Facilities, or any segment thereof, to provide Service to the Customer, and accordingly, the routing and facilities used in the provision of Service for Customer under this Tariff shall be at TransGas' sole discretion.



**19.2** Commingling of Gas

Customer acknowledges that Gas delivered by it or on its behalf to TransGas at the Point of Receipt to the Gas Transmission System may be commingled with or exchanged for Gas owned by parties other than Customer. TransGas shall deliver, at the Point of Delivery, Gas that shall meet the Gas quality requirements as set forth in this Tariff.

**19.3** No Interest in Facilities

Customer does not acquire any right, title or interest in the Gas Transmission System and Storage Facilities or any part thereof.

**19.4** Warranty

Customer represents that all Gas delivered to TransGas on behalf of Customer will be, in valid possession of Customer at the time such Gas is delivered, free and clear of encumbrances, claims and liens. The Customer has the right to make such delivery, notwithstanding such encumbrances, claims, liens, or any of them, provided such encumbrances, claims, or liens do not in any way adversely affect TransGas. Customer covenants and agrees to indemnify and save harmless TransGas from any such encumbrances, claims or liens.

**19.5** Provision of Information and Assurances

TransGas may require Customer to provide certain Information respecting a Service, including, but not limited to, assurances that necessary arrangements have been made among Customer, producers of Gas for Customer, purchasers of Gas from Customer, or other related transaction to Service, including all Gas purchase, Gas sale, operating, processing and common stream arrangements. At TransGas' request, Customers shall provide TransGas with an assurance that Customer has provided the operator of the facilities upstream of any Point of Receipt in respect of which Customer has the right to receive Service with all authorizations necessary to enable such operator to provide TransGas with all data and Information reasonably required by TransGas for the purpose of allocating the amounts of Gas delivered to TransGas among TransGas' Customers, and to bind Customer in respect of all such data and Information provided. Failure to provide such assurances and information forthwith following TransGas' request, from time to time, may result in TransGas exercising the option to suspend the Service to which such assurances and Information relate until such time as Customer provides the assurances and Information requested; provided however that any such Service suspension shall not relieve Customer from any obligation to pay any rate, toll, charge or other amount payable to TransGas.

**19.6 Construction or Operating New Equipment**

Where applicable, the Persons hereto mutually undertake to discuss with the other before commencing final design, construction or operation of any new equipment or facilities, which such Person may reasonably expect, might affect or interfere with the operation of the other Person's system or equipment.

**19.7 Authorizations, Permits and Permissions**

Customer represents that it has obtained and will keep in force during the term of any Service, all necessary governmental and private authorizations, permits and permissions for the gathering, compression and processing of Gas and the transmission thereof to, into and from the Gas Transmission System and Storage Facilities. Customer will indemnify and save harmless TransGas from lawsuits or claims arising out of any failure or alleged failure to obtain and keep in force such authorizations, permits and permissions.

**19.8 Custody and Control**

Gas received by TransGas from Customer for transportation or Storage shall be deemed to be under the exclusive custody and control of TransGas from the time such Gas is accepted by TransGas at the Point of Receipt where it enters the Gas Transmission System, until such Gas is delivered to Customer at the Point of Delivery, where it leaves the Gas Transmission System.

**19.9 Waiver of Defaults**

No waiver by TransGas or Customer of any default by the other under a Service shall operate as a waiver of future default whether of a like or different character.

**19.10 Assignments**

The TransGas Service Agreement and TransGas Contract shall be binding upon and enure to the benefit of the Persons and their respective successors and assigns. Customer shall not assign any TransGas Service Agreement, TransGas Contract or any Service without the prior written consent of TransGas. Providing that any security posted by Customer is not affected, nothing herein contained shall prevent either Person from pledging or mortgaging its rights hereunder as security for its indebtedness.

**19.11 Effects of Headings**

The headings used throughout this Tariff are inserted for reference purposes only, and are not to be considered or taken into account in construing any terms or provisions nor to be deemed in any way to qualify, modify or explain the effect of any such provisions or terms.

**19.12 Governing Laws**

This Tariff and the rights and obligations of the Persons hereunder are subject to all present and future laws (including the provisions of The SaskEnergy Act, as amended from time to time), rules, regulations, orders by any legislative body, or any orders made by a duly constituted authority, now or hereafter having jurisdiction. Further, this Tariff is subject to amendment by TransGas from time to time, and Customer shall be bound by any amendment or modification; provided, however, TransGas endeavors to provide Customer with notice of any amendment or modification prior to it becoming effective. Notwithstanding the foregoing, failure to provide notice of any amendment or modification shall not impact the ability of TransGas to enforce the said amendment or modification.

This Tariff and any Service Agreements shall be interpreted and construed in accordance with the laws in force in the Province of Saskatchewan, and the parties hereby irrevocably attorn to the jurisdiction of the courts of the Province of Saskatchewan.

**19.13 Amendment of TransGas Contract**

No amendment or variation of any term, condition or provision of any TransGas Contract shall be effective or binding upon the Persons hereto unless it is set forth in writing and approved by TransGas, and acknowledged by Customer.

**19.14 Words in Singular or Plural**

In the interpretation of this Tariff and any Service, words in the singular shall be read and construed in the plural or words in the plural shall be read and construed in the singular where the context so requires.

**19.15 Requirements of Deeds, Documents or Acts**

The Persons hereto shall from time to time and at all times do all such further acts and execute and deliver all such further deeds and documents as shall be reasonably required in order to fully perform and carry out the terms of any Service.

**19.16 Forecasting Information**

Customer agrees to provide to TransGas, for planning purposes, such forecasts of future Monthly Energy to be transported hereunder as TransGas may reasonably request from time to time.

**19.17 Customer's Obligations for Metering Equipment**

- (a) Customer agrees to provide convenient and safe space for TransGas' metering equipment and all other appurtenances to the Service on its premises, and further agrees that anyone who is not an agent of TransGas or otherwise not lawfully entitled to do so, shall not be permitted to remove, damage, inspect, or tamper with same, and that the proper authorized agents of TransGas shall at all reasonable hours have full access to the said premises for the purposes of reading, inspecting, repairing, or removing the said meter and appurtenances.
- (b) The location of the metering equipment shall be designated by TransGas.
- (c) Metering equipment and all other appurtenances on Customer's premises shall be in the care and at the risk of Customer, and if destroyed or damaged, ordinary wear and tear and negligence of TransGas excepted, Customer shall pay to TransGas the value of such metering equipment and all other appurtenances or the cost of repairing or replacing the same.

**19.18 Easements**

Customer agrees that it will grant TransGas an easement and such other rights as may be required by TransGas in order to enable TransGas to construct and maintain, on the property of Customer, facilities necessary for the provision of Service.

**19.19 Agency**

Customer may notify TransGas that a Person described in an Agency Release ("Agent") is appointed as Agent for Customer for all purposes with respect of the Service. In the event such Agency Release is intended to relate to Nomination obligations, or in the event Customer wishes to appoint an Agent solely for Nomination obligations, a Nominating Agency Agreement for TransGas Transportation, TEP and Storage Service must be executed prior to the appointment of the Agent being effective. TransGas shall have full and sufficient authority to deal with the Agent with respect to all matters relating to the Service in the same manner as if dealing directly with Customer, and Customer hereby agrees to indemnify and save harmless TransGas from any losses, demands, claims, costs or expenses that it may incur or that may arise due to TransGas' reliance on the Agent's authority. This

notice shall be effective as of and from the Effective Date of the Service and shall remain in effect until written notice to the contrary is received by TransGas from Customer. Nothing contained in this section shall release Customer from any of its obligations, agreements, covenants, representations or warranties contained in the Service.