



August 25, 2023

VIA CFTC PORTAL

Christopher J. Kirkpatrick
Office of the Secretariat
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st St., N.W.
Washington, D.C. 20581

Re: Amendment to ICE NGX Canada Inc. Rules - Submission Pursuant to Section 5c(c)(1) of the Commodity Exchange Act and CFTC Regulation § 40.6(a): Settlement Processing

Dear Mr. Kirkpatrick:

Pursuant to Section 5c(c)(1) of the Commodity Exchange Act, as amended, (“Act”) and Commodity Futures Trading Commission (“Commission”) Regulation 40.6(a), ICE NGX Canada Inc. (“ICE NGX”) is submitting this self-certification relating to changes (the “Amendments”) to the ICE NGX Contracting Party Agreement (“CPA”). The CPA functions as the rulebook for ICE NGX’s exchange and clearinghouse operations and is a “rule” as that term is defined under Commission Regulation 40.1(i).

ICE NGX intends to implement the Amendments on October 1, 2023 or on such later date as ICE NGX may designate.

1. Overview

The Amendments are intended to strengthen ICE NGX’s procedures and rules relating to physical delivery of natural gas, including by:

- codify an expectation on the part of the Contracting Party to make or take delivery of natural gas at “Timely Cycle”;
- specify that ICE NGX will pass on to the Contracting Party any direct damages claimed as a result of a failure to perform by the Contracting Party at any cycle, including Timely Cycle;
- specify a timeframe for a Contracting Party to provide direct damages pricing to ICE NGX in the case of a failure to perform;
- introduce a fall-back pricing model, applicable when a Contracting Party does not provide direct damages pricing in the required timeframe; and

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- introduce a defined term “Backstopping Transaction”, to facilitate codification of ICE NGX practices.

In addition, the Amendments update, streamline and harmonize certain provisions relating to physical settlement for natural gas products; update and streamline the provisions relating to physical settlement processes for physically settled natural gas products at Canadian delivery points; and harmonize certain common provisions relating to physically settled natural gas products across all of ICE NGX’s delivery points.

2. Details of Rule Changes

Delivery at Timely Cycle and Exchange as pass-through for Damages

As Commission staff is aware, natural gas deliveries via pipeline are scheduled at one of 5 cycles over the day prior to gas flowing and the gas day. Generally, the deadlines for submitting nominations for transfers of title and flow are:

- Timely Cycle - prior to 11:00 am for gas flowing the next day
- Evening Cycle - prior to 3:00 pm for gas flowing the next day
- Intra-day 1 (or ID1) - prior to 8:00 am on the gas day
- Intra-day 2 (or ID2) - prior to 12:30 pm on the gas day
- Intra-day 3 (or ID3) - prior to 5:00p m on the gas day

Timely Cycle is generally accepted as the primary cycle for flowing gas; the other cycles are used to “fix” or balance deliveries following Timely Cycle. ICE NGX has long pointed to Timely Cycle as the expected cycle for Contracting Parties to make or take delivery.

Over the past several years, we have seen an increase in delivery failures where one side (CP1) nominates to make or take delivery at Timely Cycle, but the other side (CP2) is unable to fulfill their obligations to make or take delivery at that cycle. In this type of situation, CP2 might attempt to fulfill their obligations to make or take delivery at Evening Cycle. However, CP1 - who did not fail on the first cycle - has “lost space” in the pipeline; i.e., CP1 no longer has sufficient firm transportation capacity to enable it to make or take delivery at the later cycle. At first glance, CP1 appears to have failed to make or take delivery at the later cycle; upon further investigation, however, CP2’s failure at Timely Cycle may be the cause of the failed delivery.

The amendments to Schedules F, G and J explicitly set out the expectation of performance at Timely Cycle. We expect that codifying this will assist staff on the Market Operations team in assigning responsibility for complicated delivery failures and improving their communications with Contracting Parties leading up to and after a failure to make or take delivery in accordance with expectations.



The CPA provides that a Contracting Party that is failed upon may claim direct damages resulting from the failure to make or take delivery. The amendments to Article 5 in the Terms and Conditions explicitly provide that any direct damages passed to Exchange arising from a Contracting Party's performance failure will be passed to that Contracting Party - including from a "lost space" issue due to a failure at Timely Cycle or any other cycle. These amendments improve legal certainty by appropriately placing this liability with the failing Contracting Party and not with ICE NGX.

Streamlining Invoicing for Direct Damages

As Commission staff is aware, ICE NGX settles invoices for physical natural gas on the 25th calendar day (or next business day) of the month following delivery (the "settlement month"). In preparation for settlement, preliminary invoices are made available on the 15th of the settlement month; Contracting Parties are required to notify ICE NGX of any discrepancies within 4 business days after the 15th of the month, after which time the Invoices are locked for payment.

The Amendments require a failed-upon Contracting Party to provide its claim for direct damages on or before the 5th calendar day of the settlement month.

If the failed-upon Contracting Party does not provide its claim for direct damages on or before the 5th of the settlement month, ICE NGX will enter adjustments that match a prescribed price reference - i.e., Gas Daily High/ Gas Daily Low, subject to a maximum of 50% higher/lower than the Gas Daily Midpoint price for that gas day.

Together, these amendments are designed to streamline the processes and timeline relating to obtaining, assessing, and invoicing for direct damages claims relating to physical delivery issues. We note that this new timeline and process will not affect the period for a Contracting Party to dispute any Invoice item in accordance with section 7.1 of the CPA.

Backstopping Transactions

At certain delivery points, ICE NGX "backstops" Contracting Parties that are unable to meet their physical delivery obligations. Backstopping is the term ICE NGX uses for finding a replacement party to take the place of a Contracting Party that is expected to fail on its obligations to make or take physical delivery, thereby avoiding a delivery failure for the other CP. The Amendments add new defined term "Backstopping Transaction" is designed to reflect current practices.

Streamlining Physical Settlement Provisions

In addition to other non-substantive amendments, the Amendments to Schedules G and J, and certain of the Amendments to Schedule F, are designed to harmonize the CPA provisions describing certain physical delivery processes that are common across ICE NGX's natural gas products.

The remaining amendments to Schedule F are designed to streamline the drafting by harmonizing, where possible, the provisions within Schedule F relating to different Canadian delivery points. These updating, streamlining and harmonizing amendments are not intended to substantively change the obligations of either ICE NGX or Contracting Party.

3. Compliance with Core Principles

ICE NGX reviewed the Amendments and determined that they comply with the rules and regulations of the Commission. In this regard, ICE NGX reviewed the derivatives clearing organization (“DCO”) core principles (each a “Core Principle”) and determined that the Amendments are potentially relevant to the following Core Principles and applicable regulations of the Commission thereunder.

Compliance (Core Principle A): The Amendments are consistent with Core Principle A - Compliance and Commission Regulation §39.10, as the Amendments clarify and enhance ICE NGX’s policies and procedures for complying with Commission regulations and internal policies.

Risk Management (Core Principle D): The Amendments are consistent with Core Principle D - Risk Management and Commission Regulations §39.13(h)(6)(vi), as the Amendments update and clarify ICE NGX’s rules requiring confirmation from a Contracting Party, and ICE NGX’s authority to liquidate or transfer positions if the Contracting Party fails to confirm, that it has access to transportation with the applicable pipeline operator to be able to perform its obligations to make or take physical delivery of natural gas.

Settlement Procedures (Core Principle E): The Amendments are consistent with Core Principle E - Settlement Procedures and Commission Regulations

- § 39.14(g)(1), as the Amendments clearly state, or re-state more clearly, the rules and obligations applicable to ICE NGX and each Contracting Party in relation to settlement of ICE NGX’s physically delivered natural gas products, including relating to invoicing and settlement of delivery “cuts” or failures; and
- § 39.14(g)(2), as the Amendments identify certain physical delivery risks in the natural gas market, and establish rules and obligations applicable to ICE NGX and each Contracting Party to manage these risks.

Public Information (Core Principle L): The Amendments are consistent with Core Principle L - Public Information and Commission Regulations

- § 39.21(a), as the Amendments codify certain expectations regarding physical delivery performance and certain practices relating to physical delivery procedures, and clearly establish the procedures and consequences relating to delivery “cuts” or failures, all providing market participants with greater information to identify and evaluate the risks and costs associated with clearing physically settled natural gas products with ICE NGX; and
- § 39.21(b) and (c)(1), as the Amendments implement the information and the terms and conditions of physical settlement described in the immediately preceding paragraph into the CPA, the current version of which is available freely to the public and all participants on the ICE NGX website.



4. Certifications

ICE NGX certifies that the Amendments discussed in this submission comply with the Commodity Exchange Act, including the Core Principles and the Regulations of the Commission thereunder. ICE NGX is not aware of opposing views expressed regarding the Amendments. ICE NGX further certifies that, concurrent with this filing, a copy of this submission was posted to ICE NGX's website.

Yours truly,

By: Greg Abbott
Title: President & COO
Date: August 25, 2023



AMENDMENTS TO THE ICE NGX CONTRACTING PARTY AGREEMENT

AMENDMENTS TO THE TERMS AND CONDITIONS

[Note: Insertions are underscored; deletions are struck through.]

ARTICLE 1 - DEFINITIONS AND INTERPRETATIONS

1.2 Definitions

“Failure to Deliver” means

- (i) in the case of a Physically Settled Gas Futures Transaction, the failure of a Seller or Exchange to make delivery of any portion of the Contract Quantity to be delivered in accordance with a Physically Settled Futures Transaction as determined by the applicable Transportation System and as more particularly set forth in Schedules “F”, “G”, or “J”, as applicable; ~~and or,~~
- (ii) in the case of a Physically Settled Power Futures Transactions, a Failure to Schedule to Deliver;

“Failure to Take” means

- (i) in the case of a Physically Settled Gas Futures Transaction the failure of a Buyer or Exchange to take delivery of any portion of the Contract Quantity to be received in accordance with a Physically Settled Futures Transaction as determined by the applicable Transportation System and as more particularly set forth in Schedules “F”, “G”, or “J”, as applicable; ~~and or,~~
- (ii) in the case of a Physically Settled Power Futures Transaction, a Failure to Schedule to Take;

“Gas Daily” means a publication entitled Platts Gas Daily published by Platts, a division of The McGraw-Hill Companies, Inc.;

“Gas Daily Absolute High” means the price indicated as Gas Daily Absolute High for the applicable gas day as published in Gas Daily;

“Gas Daily Absolute Low” means the price indicated as Gas Daily Absolute Low for the applicable gas day as published in Gas Daily;

“Gas Daily Midpoint” means the price indicated as Gas Daily Midpoint for the applicable gas day as published in Gas Daily;

...



ARTICLE 5 – RECOURSE AND LIABILITY

5.1 Failure to Deliver

a. By the Seller – In the event of a Failure to Deliver by the Seller, the Seller will pay to Exchange an amount equal to:

(i) the reasonable direct costs, claims, expenses and damages suffered or incurred by Exchange as a result of the Seller's failure to deliver the Failure Quantity including, without limitation or duplication, (a) any excess of the cost of (I) obtaining a quantity of gas ~~–~~or (II) scheduling to obtain a quantity of Physical Power, as applicable, equal to the Failure Quantity over that portion of the Purchase Amount that would have been payable with respect to the Failure Quantity (the "Seller Replacement Amount"); (b) the costs or charges, if any, levied by the Transportation System, or, in the case of a Physically Settled Power Futures Transaction, the Transmission Provider, as a result of such Failure to Deliver; (c) transportation, storage and other costs, if any, related to obtaining the Failure Quantity, and (d) in the case of a Failure to Schedule to Deliver, any additional Transmission Provider fees, charges, collateral calls or penalties; plus

(ii) interest from the date of the occurrence of the Failure to Deliver at the Default Rate to and including the date of payment to Exchange of all such amounts; plus,

(iii) liquidated damages of:

(I) with respect to Physically Settled Gas Futures Transactions, \$5,000 representing the pre-estimated amount of the costs of investigation and damage suffered by Exchange in respect of injury to the development of, reputation and integrity of the business carried on by Exchange if (a) the Failure to Deliver occurs during a System Constraint Period, and (b) Exchange has determined in its sole discretion that appropriate circumstances exist for the application of such liquidated damages; [and](#)

~~(II) — Reserved; and~~

(II) with respect to Physically Settled Power Futures Transactions, \$5,000, representing the pre-estimated amount of the costs of investigation and damage suffered by Exchange in respect of injury to the development of, reputation and integrity of the business carried on by Exchange if Exchange has determined in its sole discretion that appropriate circumstances exist for the application of such liquidated damages.

[b. Invoicing for Damages – Exchange will enter trade adjustments into the ICE NGX Clearing System for the account of the Seller to reflect any amounts owing to or owed by Seller under paragraph 5.1.a. Exchange will use best efforts to enter such trade adjustments prior to the date the applicable Invoice is locked for payment in accordance with subsection 7.1.c. deliver to the Seller a separate Invoice in respect of the Physically Settled Futures](#)



~~Transaction which is the subject of the Failure to Deliver itemizing separately the amounts payable by the Seller under (i), (ii) and, if applicable, (iii).~~

c. Exchange as Pass-through for Damages – Notwithstanding any other provision of this Agreement, Exchange reserves the right to pass on to the Contracting Party any direct damages passed to Exchange under this Section 5.1 that directly result from a failure by the Contracting Party to perform its obligations to make delivery of natural gas in a timely manner as set out in this Agreement, even if the Contracting Party eventually made full delivery of the Contract Quantity to be delivered under a Physically Settled Gas Futures Transaction.

~~d.b.~~ By Exchange – In the event of a Failure to Deliver by Exchange, Exchange will pay to the Buyer an amount equal to:

- (i) the reasonable direct costs, claims, expenses and damages suffered or incurred by the Buyer as a result of Exchange's failure to deliver the Failure Quantity including, without limitation or duplication, (a) any excess of the cost of obtaining (I) obtaining a quantity of gas or (II) scheduling to obtain a quantity of Physical Power, as applicable, equal to the Failure Quantity ~~over that portion of the Purchase Amount that would have been payable with respect to the Failure Quantity~~, (b) the costs or charges levied, if any, by the Transportation System, or, in the case of a Physically Settled Power Futures Transaction, the Transmission Provider, as a result of such Failure to Deliver, (c) transportation, transmission, storage and other costs, if any, related to obtaining the Failure Quantity, (d) in the case of Physical Power, any additional Transmission Provider fees, charges, collateral calls or penalties; plus
- (ii) interest from the date of the occurrence of the Failure to Deliver at the Default Rate to and including the date of payment to the Buyer of all such amounts.

e. Invoicing for Damages –

(i) On or before the 5th calendar day of the month following the delivery month, Buyer will provide to Exchange, in a manner acceptable to Exchange, the amounts payable by Exchange under paragraph 5.1.d.(i) and (ii), including an explanation thereof, in respect of the Physically Settled Futures Transaction which is the subject of the Failure to Deliver.

~~The Buyer will deliver to Exchange a separate Invoice in respect of the Physically Settled Futures Transaction which is the subject of the Failure to Deliver itemizing separately the amounts payable by Exchange under (i) and (ii).~~

(ii) Notwithstanding section 5.1.d. and paragraph 5.1.e.(i), if the Failure to Deliver relates to a Physically Settled Gas Futures Transaction with a U.S. Delivery Point and Buyer does not deliver the information described in paragraph 5.1.e.(i) within the required time, Exchange will enter trade adjustments into the ICE NGX Clearing System reflecting, for the account of the Buyer as full satisfaction of any amounts owing to Buyer as a result of the Failure to Deliver,

- (A) the Gas Daily Absolute High price at the applicable delivery point on the applicable gas day for the Failure Quantity, or
- (B) if the Gas Daily Absolute High price at the applicable delivery point on the applicable gas day is equal to or greater than the Gas Daily Midpoint price plus 50% at the applicable delivery point on the applicable gas day, the amount that is equal to the Gas Daily Midpoint price plus 50% at the applicable delivery point on the applicable day for the Failure Quantity.
- (iii) Exchange will use best efforts to enter such trade adjustments prior to the date the applicable Invoice is locked for payment in accordance with subsection 7.1.c.

...

5.3 Failure to Take

- a. By the Buyer – In the event of a Failure to Take by the Buyer, the Buyer will pay to Exchange an amount equal to:
 - (i) the reasonable direct costs, claims, expenses and damages suffered or incurred by Exchange as a result of the Buyer's failure to take the Failure Quantity including without limitation or duplication, (a) any excess of that portion of the Purchase Amount payable with respect to the Failure Quantity over the proceeds from the sale of the Failure Quantity, if any (the "Buyer Replacement Amount"); (b) the cost of storing or selling a quantity of gas, equal to the Failure Quantity; (c) the costs or charges levied by the Transportation System, or, in the case of a Physically Settled Power Futures Transaction, the Transmission Provider, as a result of such Failure to Take; (d) transportation, transmission, storage and other costs, if any, related to the Failure to Take the Failure Quantity; and (e) in the case of Physical Power, any additional Transmission Provider fees, charges or penalties (including any collateral calls); plus,
 - (ii) interest from the date of the occurrence of the Failure to Take at the Default Rate to and including the date of payment to Exchange of all such amounts; plus
 - (iii) liquidated damages of:
 - (I) with respect to Physically Settled Gas Futures Transactions, \$5,000 representing the pre-estimated amount of the costs of investigation and damage suffered by Exchange in respect of injury to the development of, reputation and integrity of the business carried on by Exchange if (a) the Failure to Take occurs during a System Constraint Period, and (b) Exchange has determined in its sole discretion that appropriate circumstances exist for the application of such liquidated damages; and

~~(II) — Reserved; and~~



- (II) with respect to Physically Settled Power Futures Transactions, \$5,000 representing the pre-estimated amount of the costs of investigation and damage suffered by Exchange in respect of injury to the development of, reputation and integrity of the business carried on by Exchange if Exchange has determined in its sole discretion that appropriate circumstances exist for the application of such liquidated damages.

b. Invoicing for Damages – Exchange will enter trade adjustments into the ICE NGX Clearing System for the account of the Buyer to reflect any amounts owing to or owed by Buyer under paragraph 5.3.a. Exchange will use best efforts to enter such trade adjustments prior to the date the applicable Invoice is locked for payment in accordance with subsection 7.1.c. ~~Exchange will deliver to the Buyer a separate Invoice in respect of the Physically Settled Futures Transaction which is the subject of the Failure to Take itemizing separately the amounts payable under (i), (ii) and, if applicable, (iii).~~

c. Exchange as Pass-through for Damages – Notwithstanding any other provision of this Agreement, Exchange reserves the right to pass on to the Contracting Party any direct damages passed to Exchange under this Section 5.3 that directly result from a failure by the Contracting Party to perform its obligations to take delivery of natural gas in a timely manner as set out in this Agreement, even if the Contracting Party eventually took full delivery of the Contract Quantity to be delivered under a Physically Settled Gas Futures Transaction.

d.b. By Exchange – In the event of a Failure to Take by Exchange, Exchange will pay to the Seller an amount equal to:

- (i) the reasonable direct costs, claims, expenses and damages suffered or incurred by the Seller as a result of Exchange's failure to take the Failure Quantity including, without limitation or duplication, (a) any excess of that portion of the Purchase Amount payable with respect to the Failure Quantity over the proceeds from the sale of the Failure Quantity, if any, (b) the cost of storing or selling a quantity of gas, equal to the Failure Quantity, (c) the costs or charges levied by the Transportation System, or, in the case of a Physically Settled Power Futures Transaction, the Transmission Provider, as a result of such Failure to Take, and (d) transportation, transmission, storage and other costs, if any, related to the Failure to Take the Failure Quantity; plus
- (ii) interest from the date of the occurrence of the Failure to Take at the Default Rate to and including the date of payment to the Seller of all such amounts.

e. Invoicing for Damages –

- (i) On or before the 5th calendar day of the month following the delivery month, Seller will provide to Exchange, in a manner acceptable to Exchange, the amounts payable by Exchange under paragraph 5.3.d.(i) and (ii), including an explanation



thereof, in respect of the Physically Settled Futures Transaction which is the subject of the Failure to Take.

~~The Seller will deliver to Exchange a separate Invoice itemizing separately the amounts payable by Exchange under (i) and (ii) in respect of the Physically Settled Futures Transaction which is the subject of the Failure to Take itemizing separately the amounts payable under (i) and (ii).~~

(ii) Notwithstanding section 5.3.d. and paragraph 5.3.e.(i), if the Failure to Take relates to a Physically Settled Gas Futures Transaction with a U.S. Delivery Point and Seller does not deliver the information described in paragraph 5.3.e.(i) within the required time, Exchange will enter trade adjustments into the ICE NGX Clearing System reflecting, for the account of the Seller as full satisfaction of any amounts owing to Seller as a result of the Failure to Take,

(A) the Gas Daily Absolute Low price at the applicable delivery point on the applicable gas day for the Failure Quantity, or

(B) if the Gas Daily Absolute Low price at the applicable delivery point on the applicable gas day is equal to or lesser than the Gas Daily Midpoint price minus 50% at the applicable delivery point on the applicable gas day, the amount that is equal to the Gas Daily Midpoint price minus 50% at the applicable delivery point on the applicable day for the Failure Quantity.

(iii) Exchange will use best efforts to enter such trade adjustments prior to the date the applicable Invoice is locked for payment in accordance with subsection 7.1.c.

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5.6 Backstopping of Obligations under Physically Settled Futures Transactions

a. Backstopping – Upon Exchange becoming aware of a Failure to Deliver or a Failure to Take by a Contracting Party under a Physically Settled Gas Futures Transaction at Evening Cycle or later, or upon receiving advance notification of an impending Failure to Deliver or Failure to Take at Timely Cycle, Exchange may, acting in a commercially reasonable manner and in accordance with Schedule F, G or J, as applicable, determine to offset or replace, in whole or in part, the respective performance obligations under the Physically Settled Gas Futures Transactions that the Contracting Party failed upon (any transaction resulting therefrom, a “Backstopping Transaction”), in such manner and on such terms as may be then available to Exchange.

b. Trade Adjustments to be Entered on Invoice – Exchange will enter trade adjustments in the ICE NGX Clearing System for the account of the failing Contracting Party to reflect any such Backstopping Transaction. Exchange will use best efforts to enter such trade adjustments prior to the date the applicable Invoice is locked for payment in accordance with subsection 7.1.c.

[Note: Subsequent sections of Article 5 will be renumber to reflect the insertion above.]

AMENDMENTS TO THE ICE NGX CONTRACTING PARTY AGREEMENT

[Note: Insertions are underscored; deletions are struck through.]

SCHEDULE "F" – PHYSICALLY SETTLED GAS FUTURES – CANADIAN DELIVERY POINTS

This Schedule "F" contains the clearing and settlement provisions for all Physically Settled Gas Futures Products at Canadian Delivery Points that are listed on the ICE NGX Product List and designated as cleared through the ICE NGX Clearing System.

1. Product Availability

Transactions ~~in~~ of Physically Settled Gas Futures Products at Canadian Delivery Points may be entered into up to such times on such Trading Days as are stipulated by Exchange through the ICE NGX Trading System to the Contracting Parties from time to time, or as otherwise provided under the Agreement, including through a Block Transaction under Section ~~Error! Reference source not found.~~ (including but not limited to Same-Day Delivery Tenors in any Physically Settled Gas Futures Product stipulated on the ICE NGX Trading System). ~~This Schedule "F" contains the clearing and settlement provisions for all Physically Settled Gas Futures Products that are listed on the ICE NGX Product List and designated as cleared through the ICE NGX Clearing System.~~

2. Relationship to Agreement

Nothing in this Schedule "F" will impair the obligations or rights of Exchange or the rights or obligations of the Contracting Party pursuant to this Agreement. Any Contracting Party which is a party to a Physically Settled Gas Futures Transaction entered into at a Canadian Delivery Point hereby agrees that any such Physically Settled Gas Futures Transaction includes the provisions of this Schedule "F" and is subject to the terms of this Agreement.

3. Spreads

- a. Effect on Second Leg of Force Majeure on First Leg – A force majeure event at the first Delivery Point or during the first time period of a Gas Spread Transaction may reduce the Obligations of Exchange and Contracting Party under the Gas Spread Transaction at the first Delivery Point or during the first time period but will not affect the Obligations of Exchange and the Contracting Party under the Gas Spread Transaction at the second Delivery Point or during the second time period;
- b. Effect on First Leg of Force Majeure on Second Leg – A force majeure event at the second Delivery Point or during the second time period of a Gas Spread Transaction may reduce the Obligations of Exchange and the Contracting Party under the Gas Spread Transaction at the second Delivery Point or during the second time period pursuant to this Schedule but will not affect the Obligations of Exchange and the Contracting Party under the Gas Spread Transaction at the first Delivery Point or during the first time period;
- c. Designation – Exchange retains the right to designate a Gas Spread Transaction submitted and accepted for clearing in accordance with Section ~~Error! Reference source not found.~~ of the Terms and Conditions as two separate Physically Settled Gas Futures Transactions for the purposes of applicable fees in Schedule A.

4. Pre-Delivery Procedure

- a. Notice of Deliveries – At any time prior to delivery, Exchange may ~~give notification to the Contracting Party of total Daily Contract Quantities due for receipt or delivery, and~~ may request verification from the Contracting Party that the Contracting Party has access to the relevant Transportation System(s) at the relevant Canadian Delivery Point(s) to perform its Obligations as Buyer or Seller under its Physically Settled Futures Transactions ~~an active Title Transfer, MTT, services contract or pipeline agreement account, as applicable, with appropriate pipeline operators for services at each Delivery Point at which the Contracting Party transacts, such account being at all times in good standing and, in the case of the Empress Delivery~~

~~Points, that it holds all necessary entitlements to deliver gas on TCPL Alberta System or receive gas on the TCPL Canadian Mainline System, as applicable, on a firm basis (and not on an interruptible basis).~~

- b. Verification of Access to Transportation Systems ~~Deliveries~~ – Within 24 hours of any such request, the Contracting Party will verify to Exchange its access to the relevant Transportation System(s) at the U.S. Delivery Point(s) to perform its Obligations as Buyer or Seller under its Physically Settled Futures Transactions ~~capacity to take or deliver the Daily Contract Quantities for each Delivery Day.~~
- c. Remedial Actions by Contracting Party – If the Contracting Party does not verify its access to the relevant Transportation System(s) ~~capacity to take or deliver the total Daily Contract Quantities for any Delivery Day~~ in accordance with paragraph b., the Contracting Party ~~shall continue to be entitled to complete such verifications or is required~~ to enter into a one or more Physically Settled Gas Futures Transaction(s) to offset, in whole or in part, its delivery or ~~take receipt~~ obligations ~~until 15:00 on the second Business Day prior to such~~ prior to the nomination deadline for the applicable Delivery Day.
- d. Remedial Actions by Exchange ~~if verifications in accordance with paragraph b. are not given by the Contracting Party. By 15:00 on the second Business Day prior to such Delivery Day, the orders of the Contracting Party which the Contracting Party has entered for the purchase or sale of gas may be eliminated and~~ If the Contracting Party has not verified to Exchange's satisfaction, acting reasonably, its access to the relevant Transportation System(s) at the Canadian Delivery Points to perform its Obligations as Buyer or Seller or offset its obligations to make or take delivery under its Physically Settled Futures Transactions prior to the nomination deadline for such Delivery Day, Exchange may enter into Physically Settled Gas Futures Backstopping Transactions or enact the Liquidation and Close-out Procedures in accordance with this Agreement to offset, in whole or in part, delivery or take receipt obligations, which in the opinion of Exchange may not be performed, ~~in accordance with the Liquidation Procedure as provided for in this Agreement.~~

5. Delivery Procedures

- a. Performance at Timely Cycle – The Contracting Party, whether acting as Buyer or Seller, is expected to take or deliver natural gas, as applicable, at Timely Cycle, in accordance with this section.

~~A. AB-NIT DELIVERY POINTS~~

- b. Delivery Procedures at AB-NIT – Exchange will submit a Title Transfer to TCPL for the delivery or take of gas under all Physically Settled Gas Futures Transactions at the AB-NIT Delivery Point as follows.:
 - (i) Yesterday Products – On each Trading Day before ~~11:00 CST~~ 11:00 MST, during the observance of Standard Time in Alberta, or 10:00 a.m. MDT, during the observance of Daylight Savings Time in Alberta, Exchange will, for each Contracting Party, aggregate all of the Daily Contract Quantities DCQs for delivery and aggregate all of the Daily Contract Quantities DCQs for receipt in the AB-NIT Yesterday Products and ~~Exchange~~ will submit a Title Transfer for all deliveries and receipts in GJs with a unique package number, Contracting Party mnemonic and with a start and end date of yesterday.

~~At the end of each day, Exchange will submit a Title Transfer to TCPL for the delivery or receipt of gas under all Same Day Physically Settled Gas Futures Transactions at the AB-NIT Delivery Point as follows:~~

- (ii) ~~for all~~ Same Day Products – At the end of each day, Exchange will, for each Contracting Party, aggregate all of the Daily Contract Quantities DCQs for delivery and sum all of the Daily Contract Quantities DCQs for receipt in the AB-NIT Same Day Products. ~~Exchange and~~ will submit a Title Transfer for all deliveries and receipts in GJs with a unique package number, Contracting Party mnemonic and with a start and end date of today.;
- (iii) ~~for all~~ All other Physically Settled Gas Futures Transactions – At the end of each day, Exchange will, for each Contracting Party, aggregate all of the Daily Contract Quantities DCQs for delivery tomorrow

and aggregate all of the Daily Contract Quantities DCQs for receipt tomorrow ~~in-under~~ the Fixed Price, Basis and Index Physically Settled Gas Futures Transactions. ~~Exchange and~~ will submit Title Transfer for all deliveries and receipts in GJs with a unique package number, Contracting Party mnemonic with a start and an end date of tomorrow.

- c. Delivery Procedures at all other Canadian Delivery Points – Exchange and each Contracting Party with Physically Settled Gas Futures Transactions at any Canadian Delivery Point other than AB-NIT will submit Title Transfers or Name Change Nominations, as applicable, for the delivery or take of gas under all such Physically Settled Gas Futures Transactions as follows.
- (i) Conversion to GigaJoules – Each of Exchange and the Contracting Party will convert the Daily Contract Quantities under each Physically Settled Gas Futures Transaction at any of the Empress and Eastern Canada Delivery Points, Union-Dawn Delivery Point and Union Parkway Delivery Point from MMBtu to GigaJoules in accordance with the conversion factor as published in the TCPL Terms and Conditions or the Union General Terms, as applicable, and round such quantities to the nearest GigaJoule.
 - (ii) Contracting Party to Net Daily Contract Quantity – Each Contracting Party will offset the Daily Contract Quantities due for delivery against the Daily Contract Quantities due to be taken on each day for all Physically Settled Gas Futures Transactions to determine a net Daily Contract Quantity at each of the Canadian Delivery Points.
 - (iii) Contracting Party to Submit Title Transfers or Name Change Nominations – Except for the Station 2 Delivery Point, each Contracting Party with a net Daily Contract Quantity to be delivered or to be taken at the Canadian Delivery Points will submit to the applicable pipeline operator
 - (A) for Same-Day Products, Title Transfers or Name Change Nominations, as applicable, for the net Daily Contract Quantity under Same Day Products at the applicable Canadian Delivery Point in GJs with a unique package number, Exchange mnemonic and with a start and end date of today
 - (I) for the Union-Dawn Delivery Point and the Union Parkway Delivery Point, before the next available intra-day NAESB nomination deadline;
 - (II) for the Alliance Delivery Point, Spectra Station 2 Delivery Point and TEP Delivery Point, before 2:00 p.m. MPT; and
 - (B) for all other Physically Settled Gas Futures Transaction, Title Transfers or Name Change Nominations, as applicable, for the net Daily Contract Quantity under Same Day Products at the applicable Canadian Delivery Point in GJs with a unique package number, Exchange mnemonic and with a start and end date of tomorrow
 - (I) for the Spectra Station 2 Delivery Point, before 3:00 p.m. MPT; and
 - (II) for all other Canadian Delivery Points, before the NAESB Timely Nomination Deadline.
 - (iv) Exchange to Net Daily Contract Quantity – Exchange will offset the Daily Contract Quantities due for delivery against the Daily Contract Quantities due to be taken on each day for all Physically Settled Gas Futures Transactions to determine a net Daily Contract Quantity at each of the Canadian Delivery Points.
 - (v) Exchange to Submit Title Transfers or Name Change Nomination – For all net Daily Contract Quantities of gas to be delivered or to be taken at the applicable Canadian Delivery Point, Exchange will submit to the applicable pipeline operator
 - (A) for Yesterday Products, Title Transfers, Name Change Nominations or imbalance trades nominations, as applicable, for the net Daily Contract Quantity under Yesterday Products at the

applicable Canadian Delivery Point in GJs with a unique package number, Contracting Party mnemonic and with a start and end date of yesterday

- (I) for the Station 2 Delivery Point, before 10:00 a.m. MPT; and
- (II) for the Alliance Delivery Point, before 10:00 a.m. MPT;
- (B) for Same-Day Delivery Products, Title Transfers or Name Change Nominations, as applicable, for the net Daily Contract Quantity under Same Day Products at the applicable Canadian Delivery Point in GJs with a unique package number, Contracting Party mnemonic and with a start and end date of today
 - (I) for the Union-Dawn Delivery Point and the Union Parkway Delivery Point, before the next available intra-day NAESB nomination deadline;
 - (II) for the Alliance Delivery Point, Spectra Station 2 Delivery Point and TEP Delivery Point, before 2:00 p.m. MPT; and
- (C) for all other Physically Settled Gas Futures Transaction, Title Transfers or Name Change Nominations, as applicable, for the net Daily Contract Quantity under Same Day Products at the applicable Canadian Delivery Point in GJs with a unique package number, Contracting Party mnemonic and with a start and end date of tomorrow
 - (I) for the Spectra Station 2 Delivery Point, before 3:00 p.m. MPT; and
 - (II) for all other Canadian Delivery Points, before the NAESB Timely Nomination Deadline.
- (vi) Empress and Eastern Canada Delivery Points – Any Contracting Party with a net Daily Contract Quantity to be delivered or to be taken at any of the Empress and Eastern Canada Delivery Points will
 - (A) before the NAESB Timely Nomination Deadline, acknowledge the Title Transfers Nominations submitted by Exchange via NRG Highway, and
 - (B) rank Exchange as “last-to-be-cut” or “first-to-be-delivered”, as applicable, for each nomination cycle.
- d. Nomination Waiver at AB-NIT, Alliance and Spectra Station 2 Delivery Points – Any Contracting Party with a net Daily Contract Quantity to be delivered or to be taken at any of the AB-NIT Delivery Point, the Alliance Delivery Point or the Spectra Station 2 Delivery Point must enable a nomination waiver with the applicable pipeline operator.

~~B.—EMPRESS AND EASTERN CANADA DELIVERY POINTS~~

~~On each Trading Day, Exchange will submit Title Transfer Nominations for the delivery or take of gas under all Physically Settled Gas Futures Transactions at the applicable Delivery Point entered into through the Trading System before the NAESB Timely Nomination Deadline on each Trading Day as follows:~~

- ~~e. both Exchange and the Contracting Parties will convert the Daily Contract Quantities under each Physically Settled Gas Futures Transaction from MMBtu to GigaJoules in accordance with the conversion factor as published in the TCPL Terms and Conditions, and round such quantities to the nearest GigaJoule;~~
- ~~f. both Exchange and the Contracting Parties will offset the Daily Contract Quantities due for delivery against the Daily Contract Quantities due to be taken on each Delivery Day for all Physically Settled Gas Futures Transactions to determine a net Daily Contract Quantity at the applicable Delivery Point;~~

- ~~g. for all Same Day Delivery Tenors of a Physically Settled Futures Product, Exchange will for each Contracting Party, aggregate all of the DCQs for delivery and sum all of the DCQs for receipt in the Same Day Delivery Tenors of a Physically Settled Futures Product; and for all other Physically Settled Gas Futures Transaction, Exchange will submit Title Transfer Nominations to TCPL via NRG Highway before the NAESB Timely Nomination Deadline for all net Daily Contract Quantities of gas to be delivered or to be taken on each Delivery Day at the applicable Delivery Point. The Title Transfer Nomination will also include a unique package number, Contracting Party mnemonic and beginning and end date; and~~
- ~~h. Any Contracting Party with a net Daily Contract Quantity to be delivered or to be taken at the applicable Delivery Point will acknowledge the Title Transfers Nominations submitted by Exchange before the NAESB Timely Nomination Deadline via NRG Highway, and (ii) rank Exchange as “last to be cut” or “first to be delivered”, as applicable, for each nomination cycle.~~

~~C. UNION DAWN AND PARKWAY DELIVERY POINTS~~

~~On each day, Exchange and the Contracting Parties with Physically Settled Gas Futures Transactions at the Union Dawn Delivery Point and/or the Union Parkway Delivery Point will submit Name Change Nominations of the delivery or take of gas under all Physically Settled Gas Futures Transactions at each of the Union Dawn and the Union Parkway Delivery Points as follows:~~

- ~~i. both Exchange and such Contracting Parties will convert the Daily Contract Quantities under each Physically Settled Gas Futures Transaction from MMBtu to GigaJoules in accordance with the conversion factor as published in the Union General Terms, and round such quantities to the nearest GigaJoule;~~
- ~~j. the Contracting Parties will offset the Daily Contract Quantities due for delivery against the Daily Contract Quantities due to be taken on each day for all Physically Settled Gas Futures Transactions to determine a net Daily Contract Quantity at each of the Union Dawn and Union Parkway Delivery Points;~~
- ~~k. any Contracting Party with a net Daily Contract Quantity to be delivered or to be taken at the Union Dawn Delivery Point and the Union Parkway Delivery Point will submit Name Change Nominations for the net Daily Contract Quantity to Union; and~~
- ~~l. Exchange will submit Name Change Nominations to Union for all net Daily Contract Quantities of gas to be delivered or to be taken at the Union Dawn Delivery Point and the Union Parkway Delivery Point.~~

~~D. SPECTRA DELIVERY POINTS~~

~~On each day, Exchange and the Contracting Parties with Physically Settled Gas Futures Transactions at the Spectra Delivery Points will submit Title Transfers of the delivery or take of gas under all Physically Settled Gas Futures Transactions at the Spectra Delivery Points as follows:~~

- ~~m. each Contracting Party will offset the Daily Contract Quantities due for delivery against the Daily Contract Quantities due to be taken on each Gas Day for all Physically Settled Gas Futures Transactions to determine a net Daily Contract Quantity at the Spectra Delivery Points;~~
- ~~n. each Contracting Party with net Daily Contract Quantities to be delivered or to be taken at the Spectra Delivery Points will submit Title Transfers for their respective net Daily Contract Quantity to Duke;~~
- ~~o. Exchange will, for each Contracting Party, offset the Daily Contract Quantities due for delivery against the Daily Contract Quantities to be taken for each Gas Day for all Physically Settled Gas Futures Transactions to determine a net Daily Contract Quantity at the Spectra Delivery Points; and~~
- ~~p. Exchange will submit Title Transfers to Duke for all net Daily Contract Quantities of gas to be delivered or to be taken at the Spectra Delivery Points.~~

~~E.—TEP DELIVERY POINTS~~

~~Exchange will submit Title Transfers to TransGas for the delivery or receipt of gas under all Physically Settled Gas Futures Transactions at the TEP Delivery Point as follows:~~

- ~~q. — for all Same Day Products — Before 1400 MPT on each day, Exchange will for each Contracting Party, aggregate all of the DCQs for delivery and aggregate all of the DCQs for receipt in the Same Day Physically Settled Gas Futures Transactions. Exchange will submit a Title Transfer for all net deliveries and net receipts in GJs with the Contracting Party's account number and with a start and end date of today;~~
- ~~r. — for all other Physically Settled Gas Futures Transactions — After Exchange's close of business on each day, Exchange will for each Contracting Party aggregate all of the DCQs for delivery tomorrow and aggregate all of the DCQs for receipt tomorrow in the Physically Settled Gas Futures Transactions. Exchange will submit Title Transfer for all net deliveries and net receipts in GJs with the Contracting Party's account number with a start and an end date of tomorrow.~~

~~F.—ALLIANCE DELIVERY POINTS~~

~~a. — Yesterday Products~~

~~On each Trading Day before 11:15 a.m. CST, Exchange will submit imbalance trade Nominations for the take or delivery of the net Daily Contract Quantity for all Alliance Yesterday products as follows:~~

- ~~(i) Exchange will offset the Daily Contract Quantities due for delivery against the Daily Contract Quantities due to be taken in the Alliance Yesterday Products to determine a net Daily Contract Quantity at the applicable Delivery Point;~~
- ~~(ii) Exchange will submit imbalance trade Nominations for all net Daily Contract Quantities of gas to be delivered or taken at the applicable Delivery Point with an imbalance trade identifier;~~
- ~~(iii) Each Contracting Party will have until 11:45 a.m. CST to confirm the imbalance trade Nomination with Alliance; any imbalance trade Nominations for Alliance Yesterday Products not confirmed by 11:45 a.m. CST will be confirmed by Exchange with Alliance on behalf of the Contracting Party.~~

~~Each Contracting Party that enters into a transaction in an Alliance Yesterday product waives any recourse against Exchange in respect of imbalance trade Nominations confirmed by Exchange in accordance with this paragraph.~~

~~2. — All Other Alliance Products~~

~~On each Trading Day, Exchange will submit Nominations for the delivery or take of gas under all Physically Settled Gas Futures Transactions at the applicable Delivery Point entered into through the Trading System before the NAESB Timely Nomination Deadline on each Trading Day as follows:~~

- ~~(iv) both Exchange and the Contracting Parties will offset the Daily Contract Quantities due for delivery against the Daily Contract Quantities due to be taken on each Delivery Day for all Physically Settled Gas Futures Transactions to determine a net Daily Contract Quantity at the applicable Delivery Point;~~
- ~~(v) Exchange will submit Nominations via Alliance Pipeline's nomination entry tool before the NAESB Timely Nomination Deadline for all net Daily Contract Quantities of gas to be delivered or to be taken on each Delivery Day at the applicable Delivery Point. The Nomination will also include a unique package number, Contracting Party mnemonic and beginning and end date, and will indicate the standard Heat Rate required by Alliance; and~~

~~Any Contracting Party with a net Daily Contract Quantity to be delivered or to be taken at the applicable Delivery Point must enable a nomination waiver with Alliance Pipelines, which will in turn provide the Contracting Party~~

~~with an acknowledgment of the Nominations submitted by Exchange before the NAESB Timely Nomination Deadline via the Alliance Pipeline's nomination entry tool found on the Alliance Customer Activity Site.~~

6. Performance of the Physically Settled Gas Futures Transactions

A. ~~AB-NIT, UNION DAWN AND PARKWAY, EASTERN CANADA, SPECTRA, AND TEP DELIVERY POINTS~~

~~The Physically Settled Gas Futures Transactions at the applicable Delivery Point will be performed as follows:~~

- a. Performance – The Physically Settled Gas Futures Transactions at Canadian Delivery Points will be performed as follows:
 - (i) By the Contracting Party:—
 - (A) upon the acceptance or confirmation of the Title Transfers, Inventory Transfer Nomination or Name Change Nomination, as applicable, by the ~~appropriate~~ applicable pipeline operator for the total Daily Contract Quantities or net Daily Contract Quantity, as applicable, of gas nominated for delivery or ~~receipt~~ take at the Canadian Delivery Points; and
 - (B) by the payment to Exchange of the Invoice amounts for the Physically Settled Gas Futures Transactions at the applicable Canadian Delivery Points.
 - (ii) By Exchange:—
 - (A) upon the acceptance or confirmation of the Title Transfers, Inventory Transfer Nomination or Name Change Nomination, as applicable, by ~~the appropriate~~ applicable pipeline operator for the total Daily Contract Quantities or net Daily Contract Quantity, as applicable, of gas nominated for delivery or ~~receipt~~ take at the Canadian Delivery Points; and
 - (B) by the payment to the Contracting Party of the Invoice amounts for the Physically Settled Gas Futures Transactions at the applicable Canadian Delivery Points.

B. ~~EMPRESS DELIVERY POINTS~~

- a. ~~Delivery by Seller~~—~~The Physically Settled Gas Futures Transactions will be performed by the Seller by the pipeline operator confirming nominations by the Seller of the net Daily Contract Quantity to Exchange.~~
- b. ~~Receipt by Exchange~~—~~The Physically Settled Gas Futures Transactions will be performed by Exchange:~~
 - (i) ~~by the pipeline operator confirming nominations of the net Daily Contract Quantity from Seller to Exchange; and~~
 - (ii) ~~by payment to the Seller of the Purchase Amount in accordance with the Invoice, which will reflect a net amount payable or receivable pursuant to this Agreement.~~
- c. ~~Receipt by the Buyer~~—~~The Physically Settled Gas Futures Transactions will be performed by the Buyer:~~
 - (i) ~~by the pipeline operator confirming nominations of the net Daily Contract Quantity from Exchange to the Buyer; and~~
 - (ii) ~~by payment of the Purchase Amount to Exchange in accordance with the Invoice, which will reflect a net amount payable or receivable pursuant to this Agreement.~~

~~d. Delivery by Exchange—The Physically Settled Gas Futures Transactions will be performed for Exchange by the pipeline operator confirming nominations by Exchange of the net Daily Contract Quantity to Buyer.~~

~~C. ALLIANCE DELIVERY POINTS~~

~~a. Delivery by Seller—The Physically Settled Gas Futures Transactions will be performed by the Seller by the pipeline operator confirming nominations by the Seller of the net Daily Contract Quantity to Exchange.~~

~~b. Receipt by Exchange—The Physically Settled Gas Futures Transactions will be performed by Exchange:~~

~~(i) by the pipeline operator confirming nominations of the net Daily Contract Quantity from Seller to Exchange; and~~

~~(ii) by payment to the Seller of the Purchase Amount in accordance with the Invoice, which will reflect a net amount payable or receivable pursuant to this Agreement.~~

~~e. Receipt by the Buyer—The Physically Settled Gas Futures Transactions will be performed by the Buyer:~~

~~(i) by the pipeline operator confirming nominations of the net Daily Contract Quantity from Exchange to the Buyer; and~~

~~(ii) by payment of the Purchase Amount to Exchange in accordance with the Invoice, which will reflect a net amount payable or receivable pursuant to this Agreement.~~

~~d. Delivery by Exchange—The Physically Settled Gas Futures Transactions will be performed for Exchange by the pipeline operator confirming nominations by Exchange of the net Daily Contract Quantity to Buyer.~~

7. Procedures on Failure of Performance

~~A. AB-NIT, ALLIANCE AND TEP DELIVERY POINTS~~

~~a. Rejection of Title Transfer – In the event of a Failure to Deliver or Failure to Take in respect of a Physically Settled Gas Futures Transaction at any Canadian Delivery Point that the pipeline operator notifies Exchange that it will not transfer gas from or into a Contracting Party's pipeline account, Exchange will be entitled to initiate the following procedure:~~

~~(i) Exchange will notify the Contracting Party by instant message, phone or email ~~instant message~~ that a Title Transfer or Name Change Nomination has been rejected by the pipeline operator indicating the quantity affected ~~and initiating a 60 minute period to allow resolution by the Contracting Party;~~ and~~

~~(ii) if no solution is confirmed from the Contracting Party within such period, then Exchange will give notice by phone or instant message or confirm by email to the Contracting Party that there is a Failure to Deliver or a Failure to Take and indicate the quantity affected; and~~

~~(iii) Exchange may exercise any of its rights under Section 5.5 of the Terms and Conditions.~~

~~B. EMPRESS, UNION DAWN AND PARKWAY, EASTERN CANADA AND SPECTRA DELIVERY POINTS~~

~~Rejection of a Nomination—In the event that the pipeline operator rejects either all or a portion of the Seller's or the Buyer's Title Transfer or Name Change Nomination, as applicable and respectively, at G.I.S.B. or NAESB Evening Nomination Cycle, as applicable, or later, Exchange will be entitled to initiate the following procedure:~~

~~a. Exchange will notify the Contracting Party by phone or instant message that a Title Transfer Nomination has been rejected by TCPL indicating the quantity affected and initiating a 30 minute period to allow resolution~~

~~by the Contracting Party, followed by an instant message or email confirming the details and the time notice was given;~~

- ~~b. if no solution is confirmed from the Contracting Party within such period, then Exchange will give notice by phone, instant message or email to the Contracting Party that there is a Failure to Deliver or a Failure to Take and indicate the quantity affected; and~~
- ~~c. Exchange may exercise any of its rights under Section 5.5 of the Terms and Conditions.~~

8. Title

- a. From Seller – Title to and risk of loss of gas delivered under any Physically Settled Gas Futures Transaction shall pass from the Seller during delivery at the receipt point specified in such Physically Settled Gas Futures.
- b. To Buyer – Title to and risk of loss of gas delivered under any Physically Settled Gas Futures Transaction shall pass to the Buyer during delivery at the receipt point specified in such Physically Settled Gas Futures Transaction.
- c. Regarding Exchange – In no event should this Agreement be construed in a manner whereby title to and risk of loss of gas delivered under any Physically Settled Gas Futures Transaction shall:
 - (i) pass to Exchange, as Buyer, except as required by the Transportation System to facilitate any transfer of title from Exchange to Seller, which in such case shall be deemed to occur concurrently; or
 - (ii) be held by Exchange, as Seller, except as required by the Transportation System to facilitate any transfer of title from Exchange to Buyer, which in such case shall be deemed to occur concurrently.

9. Representations and Warranties of the Contracting Party

The Contracting Party represents and warrants in respect of any Physically Settled Gas Futures Transaction entered into by it that at the time of delivery or receipt:

- a. If it is the Seller –
 - (i) it has the full right and authority to sell gas;
 - (ii) it owns and has title to gas, or irrevocable authority to sell gas;
 - (iii) gas delivered to Exchange ~~the Buyer~~ shall be free from all royalty payments, Liens or encumbrances whatsoever; and
 - ~~(iv)~~ it has all necessary rights and entitlements with the applicable pipeline operator for the delivery of gas on the applicable pipeline on a firm basis (and not on an interruptible basis) with sufficient inventory to deliver the total Daily Contract Quantity or net Daily Contract Quantity, as applicable, sold for each Gas Day. ~~and~~
 - (v) ~~has an account with the applicable pipeline that is, at all times, in good standing with sufficient inventory to deliver the total DCQ sold on a firm basis under its Physically Settled Gas Futures Transactions for each Gas Day.~~
- b. If it is the Buyer –
 - (i) it has the full right and authority to purchase gas; and

- (ii) it has all necessary rights and entitlements with the applicable pipeline operator to take for the receipt of gas on the applicable pipeline on a firm basis (and not on an interruptible basis) with sufficient capacity to take the total Daily Contract Quantity or net Daily Contract Quantity, as applicable, purchased for each Gas Day. ~~and~~
- ~~(iii) it has a TCPL account in good standing with sufficient capacity to take the total DCQ purchased on a firm basis under its Physically Settled Gas Futures Transactions for each Gas Day.~~

10. Liability

- a. Full Satisfaction – Upon payment, in accordance with this Agreement, of the amounts required to be paid by Exchange or the Contracting Party, as the case may be, in respect of any Failure to Deliver, Failure to Pay or Failure to Take in respect of such Physically Settled Gas Futures Transaction, Exchange or such party to a Physically Settled Gas Futures Transaction shall have no further liability under such Physically Settled Gas Futures Transaction or this Agreement in respect of any such Failure to Deliver, Failure to Pay or Failure to Take.
- b. No Indirect Damages – Other than as specifically set forth in this Agreement, in no event shall Exchange or the Contracting Party be liable under this Agreement or any Physically Settled Gas Futures Transaction for any special, consequential or indirect damages or claims, including without limitation, loss of profits or revenues, cost of capital or claims of any of the suppliers or customers of the Contracting Party arising out of any Failure to Deliver, Failure to Take or Failure to Pay or any other matter for which liability may be assessed under the Agreement or any Physically Settled Gas Futures Transaction.

11. Force Majeure

A. AB-NIT DELIVERY POINT

- a. A force majeure event will exist in the event:
 - (i) of a declared force majeure by TCPL; or
 - (ii) that TCPL has caused a curtailment of the volume of gas which may be accepted by TCPL for delivery on the TCPL Alberta System,

which has the result of reducing the volume of gas which may be accepted by TCPL for delivery to the TCPL Alberta System by 25% or more, using as 100% of such volume for the winter gas season from November 1 to April 30 the winter system maximum day delivery volume forecast as published in table 3.4.2.1 of TCPL's Nova Gas Transmission Ltd. Annual Plan (12.10 bcf/d for 2002/2003) and using as 100% of such volume for the summer gas season from May 1 to October 31 the summer system maximum day delivery volume forecast as published in table 3.4.2.2 of TCPL's Nova Gas Transmission Ltd. Annual Plan (11.15 bcf/d for 2002/2003); and reducing by 25% or more the aggregate of all obligations under Physically Settled Gas Futures Transactions for all Contracting Parties which can be delivered or received; or

- (iii) TCPL has interrupted, curtailed or pro-rated inventory transfer service which affects all TCPL Alberta System shippers who have nominated for deliveries or receipts to take place by inventory transfer service.
- b. Upon the occurrence of a force majeure event, Exchange would determine the extent to which deliveries of gas could be made and receipts could be taken and will allocate the available quantities of gas at the AB-NIT Delivery Point to the available demand at the AB-NIT Delivery Point on a pro rata basis and compliance by any Buyer or any Seller with such pro rationing will not constitute a Failure to Deliver, Failure to Take or Failure to Pay. Certain Physically Settled Gas Futures Products affected by any force majeure event will be halted from trading on the Trading System. Exchange will eliminate or reduce the obligations of the Contracting Party under the Physically Settled Gas Futures Transactions by an adjustment to the reports to

reflect the consequences of the force majeure event. Any Physically Settled Gas Futures Products affected by the force majeure event may be halted from trading for the duration of the force majeure.

B. EMPRESS DELIVERY POINTS

- a. A force majeure event will exist at the Empress Delivery Point in the event:
 - (i) TCPL curtails, interrupts or prorates firm transportation service for all customers holding TCPL firm delivery capacity on TCPL Alberta System at Empress; or
 - (ii) TCPL curtails, interrupts or prorates firm transportation service for all customers holding firm transportation capacity on TCPL Canadian Mainline at Empress.
- b. On any day that force majeure exists at the Empress Delivery Point, the Contracting Parties' obligation to take or deliver gas pursuant to all Physically Settled Gas Futures Transactions with a Delivery Point at the Empress Delivery Point shall be reduced by the same percentage as the curtailment, interruption or allocation for that day. Any Physically Settled Gas Futures Products affected by the force majeure event may be halted from trading for the duration of the force majeure.

C. UNION-DAWN AND PARKWAY DELIVERY POINTS

- a. A force majeure event will exist at the Union-Dawn Delivery Point or Union Parkway Delivery Point in the event that Union declares force majeure pursuant to Article XI of the Union General Terms.
- b. On any day that force majeure exists at the Union-Dawn Delivery Point or Union Parkway Delivery Point, the Contracting Parties' obligation to take or deliver gas pursuant to all Physically Settled Gas Futures Transactions with a Delivery Point at the Union-Dawn Delivery Point or Union Parkway Delivery Point shall be reduced by the same percentage as the curtailment, interruption or allocation for that day. Any Physically Settled Gas Futures Products affected by the force majeure event may be halted from trading for the duration of the force majeure.

D. EASTERN CANADA DELIVERY POINTS

- a. A force majeure event will exist:
 - (i) if TCPL curtails, interrupts or prorates firm transportation service for all customers holding TCPL firm Transportation capacity on the TCPL Canadian Mainline System at the TCPL Niagara, TCPL Chippawa, TCPL Iroquois, TCPL Emerson Great Lakes, TCPL North Bay Junction, TCPL Energir EDA, TCPL Enbridge EDA, TCPL Enbridge CDA, TCPL East Hereford or TCPL St. Clair Delivery Points; or
 - (ii) at the TCPL Niagara Delivery Point, if TGP curtails, interrupts or prorates firm transportation service for all customers holding TGP firm transportation capacity at the TCPL Niagara Delivery Point; or
 - (iii) at the TCPL Chippawa Delivery Point, if Empire curtails, interrupts or prorates firm transportation service for all customers holding Empire firm service at the TCPL Chippawa Delivery Point;
 - (iv) at the TCPL Iroquois Delivery Point, if IGTS curtails, interrupts or prorates firm transportation service for all customers holding IGTS firm service at the TCPL Iroquois Delivery Point; or
 - (v) at the TCPL Emerson Great Lakes or TCPL St. Clair Delivery Points, if Great Lakes curtails, interrupts or prorates firm transportation service for all customers holding Great Lakes firm service at the TCPL Emerson Great Lakes or TCPL St. Clair Delivery Point.

- (vi) at the TCPL Enbridge CDA Delivery Point, if Enbridge curtails, interrupts or prorates firm transportation service for all customers holding Enbridge firm transportation capacity at the Enbridge CDA Delivery Point;
 - (vii) at the TCPL Enbridge EDA Delivery Point, if Enbridge curtails, interrupts or prorates firm transportation service for all customers holding Enbridge firm transportation capacity at the Enbridge EDA Delivery Point;
 - (viii) at the TCPL Energir EDA Delivery Point, if Energir curtails, interrupts or prorates firm transportation service for all customers holding Energir firm transportation capacity at the TCPL Energir EDA Delivery Point; or
 - (ix) at the TCPL East Hereford Delivery Point, if PNGTS curtails, interrupts or prorates firm transportation service for all customers holding PNGTS firm transportation capacity at the TCPL East Hereford Delivery Point or if Energir curtails, interrupts or prorates firm transportation service for all customers holding Energir firm transportation capacity at the TCPL East Hereford Delivery Point.
- b. On any day that force majeure exists at the TCPL Niagara, TCPL Chippawa, TCPL Iroquois, TCPL Emerson Great Lakes, TCPL North Bay Junction, TCPL Energir EDA, TCPL Enbridge EDA, TCPL Enbridge CDA, TCPL East Hereford or TCPL St. Clair Delivery Point, the Contracting Parties' obligation to take or deliver gas pursuant to all Physically Settled Gas Futures Transactions with a Delivery Point at the TCPL Niagara, TCPL Chippawa, TCPL Iroquois, TCPL Emerson Great Lakes, TCPL North Bay Junction, TCPL Energir EDA, TCPL Enbridge EDA, TCPL Enbridge CDA, TCPL East Hereford or TCPL St. Clair Delivery Point shall be reduced by the same percentage as the curtailment, interruption or allocation for that day at that Delivery Point. Any Physically Settled Gas Futures Products affected by the force majeure event may be halted from trading for the duration of the force majeure.

E. SPECTRA DELIVERY POINTS

- a. A force majeure event will exist at the Spectra Delivery Points in the event that Exchange declares force majeure, pursuant to but not restricted to the declaration of a force majeure condition by Duke at the Spectra Station #2 Compressor, ICE NGX may also declare a force majeure event if any conditions in effect are determined by ICE NGX to adversely affect the physical ability of a majority of Contracting Parties to take or deliver gas pursuant to all Physically Settled Gas Futures Transactions with a Delivery Point at the Spectra Delivery Points.
- b. On any day that force majeure exists at the Spectra Delivery Points, the Contracting Parties' obligation to take or deliver gas pursuant to all Physically Settled Gas Futures Transactions with a Delivery Point at the Spectra Delivery Points shall be reduced by the same percentage as the curtailment, interruption or rationing for that day. Any Physically Settled Gas Futures Products affected by the force majeure event may be halted from trading for the duration of the force majeure.

F. TEP DELIVERY POINTS

- a. A force majeure event will exist in the event:
 - (i) of a declared force majeure by TransGas; or
 - (ii) that TransGas has caused a curtailment of the volume of gas which may be accepted by TransGas for delivery on the TransGas Transportation System, which has the result of reducing the volume of gas which may be accepted by TransGas for delivery to the TransGas Transportation System by 25% or more, and reducing by 25% or more the aggregate of all obligations under Physically Settled Gas Futures Transactions for all Contracting Parties which can be delivered or received; or

(iii) TransGas has interrupted, curtailed or pro-rated Nominations service which affects all TransGas Transportation System shippers who have nominated for deliveries or receipts.

- b. Upon the occurrence of a force majeure event, Exchange would determine the extent to which deliveries of gas could be made and receipts could be taken and will allocate the available quantities of gas at the TEP Delivery Point to the available demand at the TEP Delivery Point on a pro rata basis and compliance by any Buyer or any Seller with such pro rationing will not constitute a Failure to Deliver, Failure to Take or Failure to Pay. Certain Physically Settled Gas Futures Products affected by any force majeure event will be halted from trading on the Trading System. Exchange will eliminate or reduce the obligations of the Contracting Party under the Physically Settled Gas Futures Transactions by an adjustment to the reports to reflect the consequences of the force majeure event. Any Physically Settled Gas Futures Products affected by the force majeure event may be halted from trading for the duration of the force majeure.

G. ALLIANCE DELIVERY POINTS

- a. A force majeure event will exist at the Alliance APC-ATP Delivery Point in the event:
- (i) Alliance curtails, interrupts or prorates firm transportation service for all customers holding Alliance firm delivery capacity on Alliance Pipeline; or
 - (ii) Alliance curtails, interrupts or prorates firm transportation service for all customers holding firm transportation capacity at Alliance Canadian Receipt Delivery Point.
- b. On any day that force majeure exists at the Alliance Delivery Point, the Contracting Parties' obligation to take or deliver gas pursuant to all Physically Settled Gas Futures Transactions with a Delivery Point at the Alliance Canadian Receipt Delivery Point shall be reduced by the same percentage as the curtailment, interruption or allocation for that day. Any Physically Settled Gas Futures Products affected by the force majeure event may be halted from trading for the duration of the force majeure.

12. **Procedures on Force Majeure Event**

~~A. AB-NIT AND TEP DELIVERY POINTS~~

- a. Investigation – Exchange will, in consultation with the applicable pipeline operator, make a determination of whether a force majeure event exists and an estimate of its probable duration.
- ~~b. Physically Settled Gas Futures Transactions—All Contracting Parties with Physically Settled Gas Futures Transactions for any of the Physically Settled Gas Futures Physically Settled Futures Products for which access to the Trading System may be closed will be asked to provide confirmable estimates of the volume of gas that could be delivered or taken in respect of such obligations under such Physically Settled Gas Futures Transactions in order to ascertain available supply and available demand and as to any preferable alternative arrangements which may affect available supply or available demand.~~
- c. Notice to Contracting Parties – If a force majeure event is determined to exist (the "Force Majeure Declaration"), all affected Contracting Parties will be immediately notified by notice on Exchange's Website, phone, instant message or email; ~~Exchange may cause a temporary General Suspension and Exchange will use its discretion to determine which Products would be closed.~~
- (i) that the Force Majeure Declaration has been made;
 - (ii) the reduction in relevant obligations; and
 - (iii) which Physically Settled Gas Futures Products, if any, will be halted from trading.

- d. Title Transfers and Nominations – The Seller, Buyer and Exchange will make all necessary changes to the relevant Title Transfers or nominations, as applicable, to reflect the reduced obligations.
- e. Further Notice – Exchange will promptly advise the affected Contracting Parties of any material changes to the Force Majeure Declaration.
- ~~f. Allocation – Exchange will allocate the available supply to the available demand on a pro-rata basis as between Contracting Parties subject to any preferable alternative arrangements made by any Contracting Party and agreed to by Exchange which may reduce available demand.~~
- ~~g. No Allocation – All obligations under Physically Settled Gas Futures Transactions not covered by the allocations pursuant to paragraph (d) above will be closed as if by an offsetting trade at the Purchase Price.~~
- ~~h. Next Day – Exchange would, prior to the start of trading on each successive Trading Day:
 - ~~(i) make a decision as to the continued existence of the force majeure event and determine which Products, if any, would be available for trading; and~~
 - ~~(ii) notification of the extension or discontinuance of the force majeure event will be made to all Contracting Parties before opening any halted Physically Settled Gas Futures Products.~~~~

~~B. EMPRESS, UNION DAWN AND PARKWAY, EASTERN CANADA AND SPECTRA DELIVERY POINTS~~

- ~~a. Investigation – Exchange will, in consultation with the applicable pipeline, make a determination of whether a force majeure event exists and an estimate of its probable duration.~~
- ~~b. Notice to Contracting Parties – If a force majeure event is determined to exist, all affected Contracting Parties will be immediately notified by notice on Exchange’s Website, phone, instant message or email:
 - ~~(i) that a force majeure event exists;~~
 - ~~(ii) the reduction in obligations for that day; and~~
 - ~~(iii) which Physically Settled Gas Futures Products, if any, will be halted from trading.~~~~
- ~~c. Nominations – The Seller, Buyer and Exchange will make all necessary changes to the TCPL nominations to reflect the reduced obligations.~~
- ~~d. Further Notice – On each successive Trading Day, Exchange will advise the affected Contracting Parties as follows:
 - ~~(i) if the force majeure event is continuing;~~
 - ~~(ii) the level of reduction of obligations for that day; and~~
 - ~~(iii) which Physically Settled Gas Futures Products, if any, will be halted from trading.~~~~

~~C. ALLIANCE DELIVERY POINTS~~

- ~~a. Investigation – Exchange will, in consultation with the applicable pipeline, make a determination of whether a force majeure event exists and an estimate of its probable duration.~~
- ~~b. Notice to Contracting Parties – If a force majeure event is determined to exist, all affected Contracting Parties will be immediately notified by notice on Exchange’s Website, phone, instant message or email:~~

- ~~(i) that a force majeure event exists;~~
- ~~(ii) the reduction in obligations for that day; and~~
- ~~(iii) which Physically Settled Gas Futures Products, if any, will be halted from trading.~~
- ~~c. Nominations—The Seller, Buyer and Exchange will make all necessary changes to the Alliance nominations to reflect the reduced obligations.~~
- ~~d. Further Notice—On each successive Trading Day, Exchange will advise the affected Contracting Parties as follows:~~
 - ~~(i) if the force majeure event is continuing;~~
 - ~~(ii) the level of reduction of obligations for that day; and~~
 - ~~(iii) which Physically Settled Gas Futures Products, if any, will be halted from trading.~~

13. INVOICE AMOUNTS

- a. Determination of Invoice Amounts – Exchange will determine the amounts owing or payable on a monthly basis for Canadian Delivery Points as follows:
 - (i) for gas delivered or taken by multiplying the following:
 - (A) the portion of the Contract Quantity of gas delivered or taken at each of the Canadian Delivery Points under all Physically Settled Gas Futures Transactions for each Delivery Day of the given Month expressed in MMBtu's or GJs, as applicable; times
 - (B) the Purchase Price, expressed in U.S. dollars per MMBtu or Canadian dollars per GJ, as applicable, for all Physically Settled Gas Futures Transactions for such Month; plus
 - (ii) all fees as outlined in Schedule "A" of this Agreement; plus
 - (iii) any fees charged to Exchange by the applicable pipeline operator for the Title Transfers or Name Change Nomination, as applicable, pertaining to the delivery of gas under all such Physically Settled Gas Futures Transactions; plus
 - (iv) any applicable taxes pursuant to Article 7 of this Agreement.

~~A.—AB-NIT DELIVERY POINTS~~

~~Exchange will determine the amounts owing or payable on a monthly basis for the AB-NIT Delivery Point as follows:~~

- ~~a. For gas delivered or received by multiplying the following:~~
 - ~~(i) the portion of the Contract Quantity of gas delivered or taken at the AB-NIT Delivery Point for each Delivery Day of the given Month under all Basis Alberta Physically Settled Gas Futures Transactions and all AB-NIT US\$ and ICE NGX AB-NIT Same Day Index 5A US Products for a given Month expressed in MMBtu's; times~~
 - ~~(ii) the Purchase Price, expressed in U.S. dollars per MMBtu for all Basis Alberta Physically Settled Gas Futures Transactions and AB-NIT U.S.\$ and ICE NGX AB-NIT Same Day Index 5A US Products for such Month and Fixed Price Products; plus~~

~~(iii) the portion of the Contract Quantity of gas delivered or taken at the intra-Alberta Delivery Point for each Delivery Day of the given Month under all ICE-NGX-AB-NIT-Same-Day-Index-2A Transactions, ICE-NGX-AB-NIT-Same-Day-Index-4A Transactions and ICE-NGX-AB-NIT-Same-Day-Index-5A Transactions for a given Month expressed in GJs; times~~

~~(iv) Purchase Price, expressed in dollars per GJ for all ICE-NGX-AB-NIT-Same-Day-Index-2A Transactions, ICE-NGX-AB-NIT-Same-Day-Index-4A Transactions and ICE-NGX-AB-NIT-Same-Day-Index-5A Transactions for such Month and Fixed-Price Products; plus~~

~~a. all fees as outlined in Schedule "A" of this Agreement; plus~~

~~b. any fees charged to Exchange by TCPL for the Title Transfers pertaining to the delivery of gas under all such Physically Settled Gas Futures Transactions; plus~~

~~e. any applicable taxes pursuant to Article 7 of this Agreement.~~

~~B. EMPRESS, UNION DAWN AND PARKWAY, EASTERN CANADA AND HUNTINGTON AND SPECTRA AND TEP DELIVERY POINTS~~

~~Exchange will determine the amounts owing or payable on a monthly basis for the applicable Delivery Point as follows:~~

~~a. For gas delivered or received by multiplying the following:~~

~~(i) the portion of the Contract Quantity of gas delivered or taken at the applicable Delivery Point under all Physically Settled Gas Futures Transactions for each Delivery Day of the given Month expressed in MMBtu's or GJs, as applicable; times~~

~~(ii) the Purchase Price, expressed in U.S. dollars per MMBtu or Canadian dollars per GJ, as applicable, for all Physically Settled Gas Futures Transactions for such Month; plus~~

~~b. all fees as outlined in Schedule "A" of this Agreement; plus~~

~~c. any fees charged to Exchange by the applicable pipeline for the Title Transfer or Name Change Nomination pertaining to the delivery of gas under all such Physically Settled Gas Futures Transactions; plus~~

~~d. all applicable taxes pursuant to Article 7 of this Agreement.~~

~~C. ALLIANCE DELIVERY POINTS~~

~~Exchange will determine the amounts owing or payable on a monthly basis for the applicable Delivery Point as follows:~~

~~a. For gas delivered or received by multiplying the following:~~

~~(i) the portion of the Contract Quantity of gas delivered or taken at the applicable Delivery Point under all Physically Settled Gas Futures Transactions for each Delivery Day of the given Month expressed in MMBtu's or GJs, as applicable; times~~

~~(ii) the Purchase Price, expressed in U.S. dollars per MMBtu or Canadian dollars per GJ, as applicable, for all Physically Settled Gas Futures Transactions for such Month; plus~~

~~b. all fees as outlined in Schedule "A" of this Agreement; plus~~

- ~~e. any fees charged to Exchange by the applicable pipeline for the Title Transfer pertaining to the delivery of gas under all such Physically Settled Gas Futures Transactions; plus~~
- ~~d. all applicable taxes pursuant to Article 7 of this Agreement.~~

14. Interpretation

- a. Time – Unless otherwise specified, all ~~AM~~ times referred to herein are to Central Standard Time ("CST").
- b. Currency – The currency of all amounts of money referred to herein for each Delivery Point are as outlined in the ICE NGX Product List.
- c. Interpretation – Capitalized words and phrases used in this Schedule and not defined in this Schedule will have the same meaning as set forth in this Agreement.

15. Definitions

"AB-NIT Delivery Point" means a notional point in Alberta where gas on the TCPL Alberta System can be transferred between TCPL customer accounts utilizing title transfers;

"Alliance" means Alliance Pipeline Limited Partnership;

"Alliance APC-ATP Delivery Point" means Alliance's transfer pool;

"Alliance Customer Activities Website" means the website provided by Alliance to its customers in order to facilitate nomination entry;

"Alliance Pipeline" means the gas pipeline operated by Alliance in the Provinces of Alberta, British Columbia and Saskatchewan;

"Basis Products" and "Basis Physical Transactions", respectively, means those Physically Settled Gas Futures Products and Physically Settled Gas Futures Transactions where the formula for the calculation of the Purchase Price is determined at the time of entering into the Physically Settled Gas Futures Transaction and is based on the Henry Futures Settlement Price;

~~"BBTU" means billions (10⁹) British thermal units;~~

"CGPR" means Canadian Gas Price Reporter, published by Enerdata Ltd., or its successor;

"Chippawa Delivery Point" or "TCPL Chippawa Delivery Point" means the interconnection between TCPL Canadian Mainline System and Empire near Chippawa, Ontario;

"Duke" means Duke Energy Gas Transmission;

"Duke BC Pipeline" means the gas pipeline operated by Duke in the Province of British Columbia, formerly called the Westcoast Energy Inc. Pipeline;

"Duke Terms and Conditions" means the General Terms and Conditions of the Westcoast Energy Inc. Pipeline Tariff as amended, restated or replaced from time to time;

"Eastern Canada Delivery Points" collectively, means the TCPL Chippawa Delivery Point, TCPL Niagara Delivery Point, TCPL Iroquois Delivery Point, TCPL North Bay Junction, TCPL Energir EDA Delivery Point, TCPL Enbridge EDA Delivery Point, TCPL Enbridge CDA Delivery Point, TCPL East Hereford Delivery Point, TCPL St. Clair Delivery Point and the TCPL Emerson Great Lakes Delivery Point;

"Emerson Great Lakes Delivery Point" or "TCPL Emerson Great Lakes Delivery Point" means the interconnection between TCPL Canadian Mainline System and Great Lakes near Emerson, Manitoba;

"Empire" means Empire State Pipeline Company;

"Empress Delivery Point" means the interconnection between the TCPL Alberta System and the TCPL Canadian Mainline System at Empress, Alberta;

"Enbridge System" means the natural gas distribution service operated by Enbridge Gas Distribution in the Greater Toronto Area, the Niagara Peninsula, Barrie, Midland, Peterborough, Brockville, Ottawa, Gatineau, and other Ontario communities;

"Energir System" means the pipeline system operated by Energir L.P.;

"Fixed Price Products" and "Fixed Price Physical Transactions" means those Physically Settled Gas Futures Products and Physically Settled Gas Futures Transactions where the Purchase Price is fixed at the time of entering into the Fixed Price Physically Settled Gas Futures Transaction;

"gas" means natural gas meeting the specifications in the TCPL Terms and Conditions as then in effect at the time of delivery of gas in respect of the AB-NIT Delivery Point;

"Gas Daily" means a publication entitled Platts Gas Daily published by Platts, a division of The McGraw-Hill Companies, Inc.;

"Gas Day" means a period of twenty-four (24) consecutive hours beginning and ending at 9:00 a.m. Central Clock Time;

"Gas Spread Product" means a Physically Settled Gas Futures Product designated as an FP Spread or BS Spread in the ICE NGX Product List, and available on the ICE NGX Trading System or the ICE NGX Clearing System, that allows for the simultaneous entering into as Buyer on the one hand and Seller on the other of two Physically Settled Gas Futures Transactions at two different Delivery Points or during two different time periods;

"Gas Spread Transaction" means a transaction for the purchase or sale of a Gas Spread Product, the terms of which shall include this Agreement and for greater certainty also includes the particulars applicable to such Gas Spread Product as set forth in the ICE NGX Product List and Schedule F;

"GigaJoule" or "GJ" means 1,000,000,000 (10⁹) Joules;

"Great Lakes" means Great Lakes Transmission Company;

"Henry Futures Settlement Price" is defined in the ICE NGX Price Index Methodology Guide;

"ICE NGX AB-NIT Day Ahead Index" means, for gas delivered for the ICE NGX AB-NIT Day Ahead Product, as defined in the ICE NGX Product List, the average price as determined by Exchange in accordance with the ICE NGX Price Index Methodology Guide and published each Business Day on Exchange's Website;

"ICE NGX AB-NIT Month Ahead Index (7A)" means, for gas delivered during the delivery Month for all ICE NGX AB-NIT Month Ahead Products, the average price as determined by Exchange in accordance with the ICE NGX Price Index Methodology Guide and published each Business Day on Exchange's Website;

"ICE NGX AB-NIT Month Ahead Products" and "ICE NGX AB-NIT Month Ahead Transactions" are those Physically Settled Gas Futures Products and Physically Settled Gas Futures Transactions where the formula for calculation of the Purchase Price is determined at the time of entering into an ICE NGX AB-NIT Month

Ahead Physically Settled Gas Futures Transaction and is based on the ICE NGX AB-NIT Month Ahead Index (7A);

"ICE NGX AB-NIT Same Day Index (2A)" means, for gas delivered under all Daily Index 2A Physically Settled Gas Futures Transactions, the average price as determined by Exchange in accordance with the ICE NGX Price Index Methodology Guide and published each Business Day on Exchange's Website;

"ICE NGX AB-NIT Same Day Index 2A Product" and "ICE NGX AB-NIT Same Day Index 2A Transactions" means those Physically Settled Gas Futures Products and Physically Settled Gas Futures Transactions, where the formula for calculation of the Purchase Price is determined at the time of entering into an ICE NGX AB-NIT Same Day Index 2A Transaction and is based on the ICE NGX AB-NIT Same Day Index (2A);

"ICE NGX AB-NIT Same Day Index (4A)" means, for gas delivered for the Daily Index 4A Physically Settled Gas Futures Transaction, the average price as determined by Exchange in accordance with the ICE NGX Price Index Methodology Guide and published each Business Day on Exchange's Website;

"ICE NGX AB-NIT Same Day Index 4A Product" and "ICE NGX AB-NIT Same Day Index 4A Transaction" means those Physically Settled Gas Futures Products and Physically Settled Gas Futures Transactions where the formula for calculation of the Purchase Price is determined at the time of entering into an ICE NGX AB-NIT Same Day Index 4A Transaction and is based on the ICE NGX AB-NIT Same Day Index (4A);

"ICE NGX AB-NIT Same Day Index (5A)" means, for gas delivered for the Daily Index 5A Physically Settled Gas Futures Transactions, the average price as determined by Exchange in accordance with the ICE NGX Price Index Methodology Guide and published each Business Day on Exchange's Website;

"ICE NGX AB-NIT Same Day Index (5A) in the US" means, for gas delivered for the Daily Index 5A US Physically Settled Gas Futures Transactions, the average price as determined by Exchange in accordance with the ICE NGX Price Index Methodology Guide and published each Business Day on Exchange's;

"ICE NGX AB-NIT Same Day Index 5A Product" and "ICE NGX AB-NIT Same Day Index 5A Transaction" means those Physically Settled Gas Futures Products and Physically Settled Gas Futures Transactions where the formula for calculation of the Purchase Price is determined at the time of entering into an ICE NGX AB-NIT Same Day Index 5A Transaction and is based on the ICE NGX AB-NIT Same Day Index (5A);

"ICE NGX AB-NIT Same Day Index 5A US Product" and "ICE NGX AB-NIT Same Day Index 5A US Transaction" means those Physically Settled Gas Futures Products and Physically Settled Gas Futures Transactions where the formula for calculation of the Purchase Price is determined at the time of entering into an ICE NGX AB-NIT Same Day Index 5A US Transaction and is based on the ICE NGX AB-NIT Same Day Index (5A) in the US;

"ICE NGX Index Methodology Guide" means a document published by Exchange on Exchange's Website that provides descriptions of methodology for determining and definitions of price indices;

"ICE NGX Spectra Station #2 Day Ahead Index" means the average price as determined by Exchange in accordance with the ICE NGX Price Index Methodology Guide and published on each Business Day on Exchange's Website;

"ICE NGX Union-Dawn Day Ahead Index" means the daily weighted average price the average price as determined by Exchange in accordance with the ICE NGX Price Index Methodology Guide and published each Business Day on Exchange's Website;

"IGTS" means Iroquois Gas Transmission Company;

"Index Products" and "Index Physical Transactions", respectively, means those Physically Settled Gas Futures Products and Physically Settled Gas Futures Transactions where the formula for the calculation of the price of gas is determined at the time of entering into the Physically Settled Gas Futures Transaction and is based on the ICE NGX Union-Dawn Day Ahead Index;

"Iroquois Delivery Point" or "TCPL Iroquois Delivery Point" means the interconnection between TCPL Canadian Mainline System and IGTS, also referred to as Waddington;

"Joule" means that amount of work done when the point of application of a force of one (1) newton is displaced a distance of one (1) metre in the direction of the force;

"Location Products" means those Physically Settled Gas Futures Products where the formula for calculation of the Purchase Price is determined at the time of entering into a Physically Settled Gas Futures Transaction and is based on the Henry Futures Settlement Price;;

"MMBtu" means 1,000,000 (10⁶) British thermal units;

"Month" means a month commencing on the first Gas Day of the calendar month and ending on the first Gas Day of the next calendar month;

"MPT" means [MPT Mountain Prevailing Time](#)~~mountain-prevailing-time~~;

"MTT" means TCPL Multiple Title Transfer account as defined in the TCPL Terms and Conditions;

"NAESB Timely Nomination Deadline" means timely nomination deadline set out by the North American Energy Standards Board, which may be revised from time to time;

"Name Change Nomination" means a nomination for the transfer of gas as defined in the applicable pipelines services contract;

"Niagara Delivery Point" or "TCPL Niagara Delivery Point" means the interconnection between TCPL Canadian Mainline System and TGP near Niagara Falls, Ontario;

"Nomination" means a request in electronic or other written form for gas to flow as defined in the Atco Pipelines Agreement;

"Northwest Pipeline System" means the gas pipeline operated by Northwest Pipeline Corporation which interconnects with the Duke BC Pipeline;

"NRG Highway" means the online nomination system operated by TCPL;

"PNGTS" means Portland Natural Gas Transmission System;

"Settlement Price" means as defined in Schedule "C" – Risk Management Policy;

"Spectra Delivery Points" collectively, means the Spectra Huntingdon Delivery Point and the Spectra Station #2 Delivery Point;

"Spectra Huntingdon Delivery Point" means a location on the Duke BC Pipeline near the interconnection with Northwest Pipeline System, referred to as the Huntingdon Pool in the Duke Terms and Conditions;

"Spectra Station #2 Delivery Point" means a location on the Duke BC Pipeline at Compressor Station No. 2 near Chetwynd, British Columbia;

"Spot Day" means the next Gas Day;

"St. Clair Delivery Point" or "TCPL St. Clair Delivery Point" means a location on the TCPL Canadian Mainline System near St. Clair, Ontario and as defined in the TCPL Canadian Mainline Gas Transportation Tariff;

"TCPL" means TransCanada Pipelines Limited;

"TCPL Alberta System" means TCPL's intraprovincial pipeline system located in Alberta, formerly known as NOVA Gas Transmission Ltd.;

"TCPL Canadian Mainline System" means TCPL's interprovincial pipeline system;

"TCPL East Hereford" means a delivery point on the TCPL Mainline System that is an interconnection with PNGTS and as defined in the TCPL Canadian Mainline Gas Transportation Tariff;

"TCPL Enbridge CDA Delivery Point" means the interconnection between TCPL Mainline System and the Enbridge System for the Central Delivery Area of the Enbridge System and as defined in the TCPL Canadian Mainline Gas Transportation Tariff;

"TCPL Enbridge EDA Delivery Point" means the interconnection between TCPL Canadian Mainline System and Enbridge System for the Eastern Delivery Area of the Enbridge System and as defined in the TCPL Canadian Mainline Gas Transportation Tariff;

"TCPL Energir EDA Delivery Point" means the interconnection between TCPL Canadian Mainline System and the Energir System and as defined in the TCPL Canadian Mainline Gas Transportation Tariff;

"TCPL North Bay Junction Delivery Point" means a location on the TCPL Canadian Mainline System near North Bay, Ontario and as defined in the TCPL Canadian Mainline Gas Transportation Tariff;

"TCPL Terms and Conditions" means the General Terms and Conditions of the Gas Transportation Tariff of TCPL Alberta System;

"TEP Delivery Point" means TransGas Transfer Point 3602 for Title Transfers;

"TeraJoule" or "TJ" means 1,000,000,000,000 (10^{12}) Joules and is equal to 1,000 GJ;

"TGP" means Tennessee Gas Pipeline Company;

"Title Transfer" means the notification of inventory transfers sent to either Alliance or TCPL directing Alliance or TCPL to transfer gas between a Contracting Party's account and Exchange's account;

"Title Transfer Nominations" means the nomination for the transfer of gas into or from MTT account as defined in the TCPL Terms and Conditions;

"TransGas" means TransGas Limited;

"Union" means Union Gas Limited;

"Union-Dawn Delivery Point" means the Union's Compressor Station site situated in the northwest corner of Lot 25, Concession II in the Township of Dawn in the County of Lambton;

"Union General Terms" means the General Terms & Conditions of the Rate Schedules of Union as amended, restated or replaced from time to time;

"Union Parkway Delivery Point" means the junction of Union's and TCPL's facilities, at or adjacent to Union's facilities situated in Part Lot 9 and Part Lot 10, Concession IX, New Survey, Town of Milton, Regional Municipality of Halton; and

"Union Services Contract" means the Interruptible Service Delivery Point Contract between Union and each of the Contracting Parties, which includes the provision by Union of the Name Change Service.

16. Appointment of Agent

The Contracting Party will execute a waiver with TCPL appointing Exchange as agent for all natural gas nominations on the Contracting Party's behalf on the TCPL Alberta System.

AMENDMENTS TO THE ICE NGX CONTRACTING PARTY AGREEMENT

[Note: Insertions are underscored; deletions are struck through.]

SCHEDULE "G" – PHYSICALLY SETTLED GAS FUTURES CONTRACTS – U.S. DELIVERY POINTS

This Schedule "G" contains clearing and settlement provisions for all Physically Settled Gas Futures Products offered at U.S. Delivery Points.

1. Spread Products

Not available at U.S. Delivery Points with mediated delivery nominations.

2. Relationship to Agreement

Nothing in this Schedule "G" will impair the rights or obligations of Exchange or the rights or obligations of the Contracting Party pursuant to this Agreement. Any Contracting Party which is a party to a Physically Settled Gas Futures Transaction entered into at a U.S. Delivery Point hereby agrees that any such Physically Settled Gas Futures Transaction includes the provisions of this Schedule "G" and is subject to the terms of this Agreement.

3. Pre-Delivery Procedures

- a. Notice of Deliveries – At any time prior to delivery, Exchange ~~may give notification to the Contracting Party of the Daily Contract Quantities of gas due for receipt or delivery, and~~ may request verification from the Contracting Party that the Contracting Party has access to the relevant Transportation System(s) at the relevant U.S. Delivery Point(s) the capability to perform its Obligations as Buyer or Seller under its Physically Settled Gas Futures Transactions~~at the U.S. Delivery Points.~~
- b. Verification of Access to Transportation Systems ~~Deliveries~~ – Within 24 hours of any such request, the Contracting Party will verify to Exchange its access to the relevant Transportation System(s) at the U.S. Delivery Point(s) to perform its Obligations as Buyer or Seller under its Physically Settled Futures Transactions~~capacity to take or deliver the net Daily Contract Quantities for each Delivery Day.~~
- c. Remedial Actions by Contracting Party – If the Contracting Party does not verify its access to the relevant Transportation System(s) capacity to take or deliver the net Daily Contract Quantity for each Delivery Day in accordance with paragraph b., the Contracting Party ~~shall continue to be~~ is required to ~~complete such verifications or~~ to enter into a one or more Physically Settled Gas Futures Transactions to offset, in whole or in part, its delivery or take obligations ~~until 15:00 p.m. on the second Business Day prior to any such~~ prior to the nomination deadline for the applicable Delivery Day.
- d. Remedial Actions by Exchange – After 15:00 p.m. on the second Business Day prior to such Delivery Day if verifications in accordance with paragraph b. are not given by the Contracting Party, the orders of the Contracting Party which the Contracting Party has entered for the purchase or sale of gas may be eliminated and If the Contracting Party has not verified to Exchange's satisfaction, acting reasonably, its access to the relevant Transportation System(s) at the U.S. Delivery Points to perform its Obligations as Buyer or Seller or offset its obligations to make or take delivery under its Physically Settled Futures Transactions prior to the nomination deadline for such Delivery Day. Exchange may enter into Physically Settled Gas Futures Backstopping Transactions or enact the Liquidation and Close-out Procedures in accordance with this Agreement to offset, in whole or in part, delivery or take obligations, which in the opinion of Exchange may not be performed,~~in accordance with the Liquidation Procedure as provided for in this Agreement.~~

4. Delivery Procedures

- a. Performance at Timely Cycle – The Contracting Party, whether acting as Buyer or Seller, is expected to take or deliver natural gas, as applicable, at Timely Cycle, in accordance with this section.

- b. Procedures – On each day, Exchange and ~~each the~~ Contracting ~~Party Parties~~ with Physically Settled Gas Futures Transactions at any U.S. Delivery Point will submit Title Transfers for the delivery or take of gas under all such Physically Settled Gas Futures Transactions as follows.:
- c. Contracting Party to Net Daily Contract Quantity – Each Contracting Party will offset the Daily Contract Quantities due for delivery against the Daily Contract Quantities due to be taken ~~by it~~ on each day for all Physically Settled Gas Futures Transactions to determine a net Daily Contract Quantity at each of the U.S. Delivery Points.:
- d. Contracting Party to Submit Title Transfers – Each Contracting Party with a net Daily Contract Quantity to be delivered or to be taken at the U.S. Delivery Points will submit to the applicable U.S. Delivery Point Operator
 - (i) for Same-Day Delivery Tenors, Title Transfers before the next available intra-day NAESB nomination deadline for the net Daily Contract Quantity, and
 - (ii) for all other Physically Settled Gas Futures Transaction, Title Transfers before the NAESB Timely Nomination Deadline for the net Daily Contract Quantity. ~~to the applicable U.S. Delivery Point Operator;~~
- e. Exchange to Net Daily Contract Quantity – Exchange will, for each Contracting Party, offset the Daily Contract Quantities due for delivery against the Daily Contract Quantities due to be taken on each day for all Physically Settled Gas Futures Transactions to determine a net Daily Contract Quantity at each of the U.S. Delivery Points.:
- f. Exchange to Submit Title Transfers – For all net Daily Contract Quantities of gas to be delivered or to be taken at the applicable U.S. Delivery Point, Exchange will submit to the applicable U.S. Delivery Point Operator
 - (i) for Same-Day Tenors, Title Transfers before the next available intra-day NAESB nomination deadline for the net Daily Contract Quantity, and
 - (ii) for all other Physically Settled Gas Futures Transactions, Title Transfers before the NAESB Timely ~~+~~Nomination Deadline for the net Daily Contract Quantity. ~~and~~
- g. Rankings – Any Contracting Party with net Daily Contract Quantities to be delivered to or to be taken from Exchange at the U.S. Delivery Points will submit rankings to the U.S. Delivery Point Operator
 - (i) in accordance with the Transportation General Terms and Conditions published by the applicable U.S. Delivery Point Operator Gas Tariff, and
 - (ii) that rank Exchange as “last-to-be-cut” or “first-to-be-delivered”, as applicable, for each nomination cycle.

5. Performance of the Physically Settled Gas Futures Transactions

- a. Performance – The Physically Settled Gas Futures Transactions at ~~the applicable~~ U.S. Delivery Points will be performed as follows:
 - (i) By the Contracting Party:
 - (A) upon the acceptance of the Title Transfers by the applicable U.S. Delivery Point Operator for the net Daily Contract Quantities of gas nominated for delivery or take at the applicable U.S. Delivery Points; and

(B) by the payment to Exchange of the Invoice amounts for the Physically Settled Gas Futures Transactions at the [applicable](#) U.S. Delivery Points.

(ii) By Exchange:

(A) upon the acceptance of the Title Transfers by the applicable U.S. Delivery Point Operator for the net Daily Contract Quantities of gas nominated for delivery or take at the [applicable](#) U.S. Delivery Points; and

(B) by the payment to the Contracting Party of the Invoice amounts for the Physically Settled Gas Futures Transactions at the [applicable](#) U.S. Delivery Points.

6. Procedures on Failure of Performance

a. Rejection of a Title Transfer – ~~In the event of a Failure to Deliver or Failure to Take in respect of a Physically Settled Gas Futures Transaction at any U.S. Delivery Point that the applicable U.S. Delivery Point Operator does not accept either all or a portion of the Seller's or the Buyer's Title Transfer at G.I.S.B. or NAESB Evening Nomination Cycle, as applicable, or later, Exchange will be entitled to initiate the following procedure:~~

(i) Exchange will notify the Contracting Party by [instant message](#), phone [or email](#) that a Title Transfer has not been accepted by the U.S. Delivery Point Operator indicating the quantity affected ~~and initiating a 30 minute period to allow resolution by the Contracting Party followed by confirmation by instant message or email as determined by Exchange, of the details and the time notice was given; and~~

~~(ii) if no confirmable solution is forthcoming from the Contracting Party within the relevant period, then Exchange will give notice by phone, instant message or email to the Contracting Party that there is a Failure to Deliver or Failure to Take, indicating quantity affected; and~~

(iii) Exchange may exercise any of its rights under Section 5.5 of the Terms and Conditions.

7. Title

a. From Seller – Title to and risk of loss of gas delivered under any Physically Settled Gas Futures Transaction shall pass from the Seller during delivery at the receipt point specified in any Physically Settled Gas Futures Transaction.

b. To Buyer – Title to and risk of loss of gas delivered under any Physically Settled Gas Futures Transaction shall pass to the Buyer during delivery at the receipt point specified in any Physically Settled Gas Futures Transaction.

c. Regarding Exchange – In no event shall this Agreement be construed in a manner whereby title to and risk of loss of gas delivered under any Physically Settled Gas Futures Transaction would:

(i) pass to Exchange, as Buyer, except as required by the U.S. Delivery Point Operator to facilitate any Title Transfer from Exchange to Seller, which in each such case shall be deemed to occur concurrently; or

(ii) be held by Exchange, as Seller, except as required by the U.S. Delivery Point Operator to facilitate any Title Transfer from Exchange to Buyer, which in such case shall be deemed to occur concurrently.

8. Representations and Warranties of the Contracting Party

The Contracting Party represents and warrants in respect of any Physically Settled Gas Futures Transaction entered into by such Contracting Party that at the time of delivery or receipt:

- a. If it is the Seller:
 - (i) it has the full right and authority to sell gas;
 - (ii) it owns and has title to gas, or irrevocable authority to sell gas;
 - (iii) any gas delivered to Exchange shall be free from all royalty payments, Liens or encumbrances whatsoever; and
 - (iv) it has all necessary rights and entitlements with the applicable Delivery Point Operator for the delivery of gas on a firm basis at the applicable Delivery Point with sufficient inventory to deliver the net Daily Contract Quantity sold for each Gas Day.
- b. If the Buyer:
 - (i) it has the full right and authority to purchase gas; and
 - (ii) it has all necessary rights and entitlements with the applicable Delivery Point Operator to take gas on a firm basis at the applicable Delivery Point with sufficient capacity to take the net Daily Contract Quantity purchased for each Gas Day.

9. Liability

- a. Full Satisfaction – Upon payment, in accordance with this Agreement, of the amounts required to be paid by Exchange or the Contracting Party, as the case may be, in respect of any Failure to Deliver, Failure to Pay or Failure to Take in respect of such Physically Settled Gas Futures Transaction, Exchange or such Contracting Party shall have no further liability under such Physically Settled Gas Futures Transaction or this Agreement in respect of any such Failure to Deliver, Failure to Pay or Failure to Take.
- b. No Indirect Damages – Other than as specifically set forth in this Agreement, in no event shall Exchange or a party to a Physically Settled Gas Futures Transaction be liable under this Agreement or any Physically Settled Gas Futures Transaction for any special, consequential or indirect damages or claims, including without limitation, loss of profits or revenues, cost of capital or claims of any of the suppliers or customers of the Contracting Party arising out of any Failure to Deliver, Failure to Take or Failure to Pay or any other matter for which liability may be assessed under this Agreement or any Physically Settled Gas Futures Transaction.

10. Force Majeure

- a. [Exchange May Declare Force Majeure](#) – A force majeure event may be declared by Exchange at one of the U.S. Delivery Points if a U.S. Delivery Point Operator or U.S. Pipeline Operator declares a force majeure event or materially curtails, interrupts or prorates firm transportation services for a material number of Contracting Parties. Exchange also reserves the right to declare a force majeure if an event (including, but not limited to, a strike, lockout, national emergency, governmental action or act of God) occurs that materially affects the ability of a material number of Contracting Parties to meet their Obligations and that is beyond the control of the Contracting Parties.
- b. [Exchange Will Not Declare Force Majeure](#) – For clarity, Exchange will not declare a force majeure to the extent performance is affected by any of the following circumstances:
 - (i) the curtailment of interruptible or secondary firm transportation unless primary, in path, firm transportation is also curtailed;

- (ii) the failure of a Contracting Party to take commercially reasonable efforts to remedy a transportation, supply or market access issue including, but not limited to, changing upstream or downstream pipelines and/or corresponding supplies or markets;
 - (iii) the economic hardship of a Contracting Party, including, but not limited to, the Seller's ability to sell gas at a better price than the Purchase Price or the Buyer's ability to purchase gas at a better price than the Purchase Price or a regulatory authority disallowing, either in whole or in part, the pass through of costs resulting from this Agreement;
 - (iv) the loss of the Buyer's market or the Buyer's ability to use or resell gas purchased hereunder; or
 - (v) the loss or failure of the Seller's gas supply or depletion of reserves.
- c. **Effect of Force Majeure** – On any day that a force majeure event is declared at one of the U.S. Delivery Points, the Contracting Party's obligation to take or deliver gas pursuant to all Physically Settled Gas Futures Transactions at that U.S. Delivery Point shall be reduced by the same percentage as the curtailment, interruption or allocation for that day. Any Physically Settled Gas Futures Products affected by the force majeure event may be halted from trading for the duration of the force majeure event.

11. Procedures on Force Majeure Event

- a. Investigation – Exchange will, in consultation with the applicable Delivery Point Operator make a determination of whether a force majeure event exists and an estimate of its probable duration.
- b. Notice to Contracting Parties – If a force majeure event is determined by Exchange to exist (the "Force Majeure Declaration"), all affected Contracting Parties will be immediately notified by notice on Exchange's Website, phone, instant message or email:
 - (i) that the Force Majeure Declaration has been made;
 - (ii) the reduction in relevant obligations; and
 - (iii) which Physically Settled Gas Futures Products, if any, will be halted from trading.
- c. Title Transfer – The Seller, Buyer and Exchange will make all necessary changes to the applicable Delivery Point Operator Title Transfers to reflect the reduced obligations.
- d. Further Notice – Exchange will promptly advise the affected Contracting Parties of any material changes to the Force Majeure Declaration.

12. Invoice Amounts

- a. **Determination of Invoice Amounts** – Exchange will determine the amounts owing or payable on a monthly basis for the U.S. Delivery Points as follows:
 - (i) ~~for~~ **for** gas delivered or taken by multiplying:
 - (A) the portion of the Contract Quantity of gas delivered or taken at each of the U.S. Delivery Points under all Physically Settled Gas Futures Transactions for each Delivery Day of the given Month expressed in MMBtu's; by
 - (B) the Purchase Price, expressed in U.S. dollars per MMBtu for all Physically Settled Gas Futures Transactions for such Month; plus
 - (ii) all fees as outlined in the Fee Schedule; plus

(iii) any fees charged to Exchange by any of the applicable Delivery Point Operators for the Title Transfers pertaining to the delivery of gas under all such Physically Settled Gas Futures Transactions; plus

(iv) any applicable taxes pursuant to Section 7 of the Terms and Conditions.

13. Interpretation

- a. Time – All times referred to herein are to Central Prevailing Time.
- b. Currency – All amounts of money referred to herein or in this Agreement in respect of the U.S. Delivery Points are in U.S. dollars.
- c. Interpretation – Capitalized words and phrases used in this Schedule and not defined in this Schedule will have the same meaning as set forth in this Agreement.

14. Definitions

~~"Bbtu" means billions (10⁹) British thermal units;~~

"gas" means natural gas as produced in its natural state that meets the quality standards defined in the applicable U.S. Delivery Point Operator's Tariff as outlined in the ICE NGX Product List;

"Gas Daily" means a publication entitled Platts Gas Daily published by Platts, a division of The McGraw-Hill Companies, Inc.;

"Gas Day" means a consecutive twenty-four (24) hour period starting and ending at 9:00 a.m. Central Clock Time;

"Henry Futures Settlement Price" is defined in the ICE NGX Price Index Methodology Guide;

"ICE NGX Index Methodology Guide" means a document published by Exchange on Exchange's Website that provides descriptions of methodology for determining and definitions of price indices;

"MMBtu" means 1,000,000 (10⁶) British thermal units;

"Month" means a month commencing on the first Gas Day of the calendar month and ending on the first Gas Day of the next calendar month;

"NAESB Timely Nomination Deadline" means timely nomination deadline set out by the North American Energy Standards Board, which may be revised from time to time;

"Title Transfers" means a nomination for the transfer of gas as defined in the applicable U.S. Delivery Point Operator's Tariff as outlined in the ICE NGX Product List;

"U.S. Delivery Point Operator" means the applicable U.S. Delivery Point Operator at each Delivery Point as outlined in the ICE NGX Product List and "U.S. Delivery Point Operators" refers to them all collectively;

"U.S. Delivery Points" means all of the Delivery Points listed in the ICE NGX Product List that are designated as utilizing the mediated delivery nomination mechanism outlined in this Schedule "G";

"U.S. Pipeline Operator" means the applicable U.S. Pipeline Operator at each Delivery Point as outlined in the ICE NGX Product List and "U.S. Pipeline Operators" refers to them all collectively.

AMENDMENTS TO THE ICE NGX CONTRACTING PARTY AGREEMENT

[Note: Insertions are underscored; deletions are struck through.]

SCHEDULE "J" – PHYSICALLY SETTLED GAS FUTURES CONTRACTS WITH ASSIGNED DELIVERY – U.S. DELIVERY POINTS

This Schedule "J" contains clearing and settlement provisions for all Physically Settled Gas Futures Products with Assigned Delivery offered at U.S. Delivery Points.

1. Spread Products

Not available at U.S. Delivery Points with Assigned Delivery nominations.

2. Relationship to Agreement

Nothing in this Schedule "J" will impair the rights or obligations of Exchange or the rights or obligations of the Contracting Party pursuant to this Agreement. Any Contracting Party which is a party to a Physically Settled Gas Futures Transaction entered into at a U.S. Delivery Point hereby agrees that any such Physically Settled Gas Futures Transaction includes the provisions of this Schedule "J" and is subject to the terms of this Agreement.

3. Pre-Delivery Procedures

- a. Notice of Deliveries – At any time prior to delivery, Exchange ~~may give notification to the Contracting Party of the Daily Contract Quantities of gas due for receipt or delivery, and~~ may request verification from the Contracting Party that the Contracting Party has access to the relevant Transportation System(s) at the relevant U.S. Delivery Point(s) ~~the capability to~~ perform its Obligations as Buyer or Seller under its Physically Settled Futures Transactions at the U.S. Delivery Points.
- b. Verification of Access to Transportation Systems ~~Deliveries~~ – Within 24 hours of any such request, the Contracting Party will verify to Exchange its access to the relevant Transportation System(s) at the U.S. Delivery Point(s) to perform its Obligations as Buyer or Seller under its Physically Settled Gas Futures Transactions with Assigned Delivery ~~capacity to take or deliver the net Daily Contract Quantities for each Delivery Day.~~
- c. Remedial Actions by Contracting Party – If the Contracting Party does not verify its access to the relevant Transportation System(s) ~~capacity to take or deliver the net Daily Contract Quantity for each Delivery Day~~ in accordance with paragraph b., the Contracting Party ~~shall continue to be~~ is required to ~~complete such verifications or~~ to enter into a one or more Physically Settled Gas Futures Transactions to offset, in whole or in part, its delivery or take obligations ~~until 15:00 p.m. on the second Business Day prior to any such~~ prior to the nomination deadline for the applicable Delivery Day.
- d. Remedial Actions by Exchange – ~~After 15:00 p.m. on the second Business Day prior to such Delivery Day if verifications in accordance with paragraph b. are not given by the Contracting Party, the orders of the Contracting Party which the Contracting Party has entered for the purchase or sale of gas may be eliminated and~~ ~~If the Contracting Party has not verified to Exchange's satisfaction, acting reasonably, its access to the relevant Transportation System(s) at the U.S. Delivery Points to perform its Obligations as Buyer or Seller or offset its obligations to make or take delivery under its Physically Settled Futures Transactions prior to the nomination deadline for such Delivery Day,~~ Exchange may enter into ~~Physically Settled Gas Futures Backstopping~~ Transactions or enact the Liquidation and Close-out Procedures in accordance with this Agreement to offset, in whole or in part, delivery or take obligations, which in the opinion of Exchange may not be performed, ~~in accordance with the Liquidation Procedure as provided for in this Agreement.~~

4. Delivery Procedures

- a. Performance at Timely Cycle – The Contracting Party, whether acting as Buyer or Seller, is expected to take or deliver natural gas, as applicable, at Timely Cycle, in accordance with this section.
- b. Procedures – On each day, Contracting Parties with Physically Settled Gas Futures Transactions with Assigned Delivery at any U.S. Delivery Point will submit Title Transfers for the delivery or take of gas under all such Physically Settled Gas Futures Transactions as follows.⚡
- c. Contracting Party to Net Daily Contract Quantity – Each ~~each~~ Contracting Party will offset the Daily Contract Quantities due for delivery against the Daily Contract Quantities due to be taken ~~by it~~ on each day for all Physically Settled Gas Futures Transactions to determine a net Daily Contract Quantity at each of the U.S. Delivery Points.⚡
- d. Contracting Party to Submit Title Transfers or Assign Transportation Entitlement – Each ~~each~~ Contracting Party with a net Daily Contract Quantity to be delivered or to be taken at the U.S. Delivery Points and that controls the Transportation Entitlement will submit Title Transfers before the NAESB Timely Nomination Deadline for the net Daily Contract Quantity to the applicable U.S. Delivery Point Operator. In the event a Contracting Party does not control the Transportation Entitlement the Contracting Party shall assign the Transportation Entitlement before the NAESB Timely Nomination Deadline to ICE NGX for the net Daily Contract Quantity to be delivered or taken at the U.S. Delivery Points.⚡
- e. Exchange to Net Daily Contract Quantity – Exchange will, for each Contracting Party, offset the Daily Contract Quantities due for delivery against the Daily Contract Quantities due to be taken on each day for all Physically Settled Gas Futures Transactions to determine a net Daily Contract Quantity at each of the U.S. Delivery Points.⚡
- f. Exchange to Assign Transportation Entitlement – Exchange will assign a Transportation Entitlement it receives from a Seller for all net Daily Contract Quantities of gas to be delivered or to be taken at the applicable U.S. Delivery Point to the Buyer, before the NAESB Timely Nomination Deadline.⚡~~and~~
- g. Rankings – Any ~~any~~ Contracting Party with net Daily Contract Quantities to be delivered to or to be taken from Exchange at the U.S. Delivery Points will submit rankings to the U.S. Delivery Point Operator
 - (i) in accordance with the Transportation General Terms and Conditions published by the applicable U.S. Delivery Point Operator Gas Tariff,
 - (ii) that rank Exchange as “last-to-be-cut” or “first-to-be-delivered”, as applicable, for each nomination cycle.

5. Performance of the Physically Settled Gas Futures Transactions with Assigned Delivery

- a. Performance – The Physically Settled Gas Futures Transactions at ~~the applicable~~ U.S. Delivery Points with Assigned Delivery will be performed as follows:
 - (i) By the Contracting Party:
 - (A) upon the acceptance of the Title Transfers by the applicable U.S. Delivery Point Operator for the net Daily Contract Quantities of gas nominated for delivery or take at the applicable U.S. Delivery Points or upon assignment of the Transportation Entitlement; and
 - (B) by the payment to Exchange of the Invoice amounts for the Physically Settled Gas Futures Transactions at the applicable U.S. Delivery Points.
 - (ii) By Exchange:

- (A) upon the acceptance of the Title Transfers by the applicable U.S. Delivery Point Operator for the net Daily Contract Quantities of gas nominated for delivery or take at the [applicable](#) U.S. Delivery Points or upon assignment of the Transportation Entitlement; and
 - (B) by the payment to the Contracting Party of the Invoice amounts for the Physically Settled Gas Futures Transactions at the [applicable](#) U.S. Delivery Points.
- b. Confirmation of Performance upon Request by Exchange - The Contracting Party agrees to confirm performance of the Physically Settled Gas Futures Transactions at the applicable U.S. Delivery Points promptly upon request by Exchange, and in any event no later than 3 business days following receipt of such request.
 - c. Quantity Alternatives and Invoice Adjustments - If Exchange receives a notice of adjustment from the Contracting Party indicating that the volume or quantity contracted for at the applicable U.S. delivery points was not performed:
 - (i) by the 10th day of the calendar month following delivery, Exchange will adjust the volume or quantity on the invoice for the delivery; and
 - (ii) within 30 days following the posting by Exchange of the original Invoice, Exchange will enter a trade adjustment on the subsequent invoice.

6. Procedures on Failure of Performance

- a. Rejection of a Title Transfer - In the event [of a Failure to Deliver or Failure to Take in respect of a Physically Settled Gas Futures Transaction at any U.S. Delivery Point with Assigned Delivery](#)~~that the applicable U.S. Delivery Point Operator does not accept either all or a portion of the Seller's or the Buyer's Title Transfer at G.I.S.B. or NAESB Evening Nomination Cycle, as applicable, or later, the following procedure shall be initiated:~~
 - (i) The Contracting Party will notify Exchange by [instant message](#), phone or ~~email~~ [instant message](#) that a Title Transfer has not been accepted by the U.S. Delivery Point Operator indicating the quantity affected ~~and initiating a 30-minute period to allow resolution by the Contracting Party;~~ [and](#)
 - ~~(ii) if no resolution is forthcoming from the Contracting Party within the relevant period, then Exchange will give notice by phone, instant message or email to the Contracting Party that there is a Failure to Deliver or Failure to Take, indicating quantity affected; and~~
 - (iii) Exchange may exercise any of its rights under Section 5.5 of the Terms and Conditions.

7. Title

- a. From Seller – Title to and risk of loss of gas delivered under any Physically Settled Gas Futures Transaction shall pass from the Seller during delivery at the receipt point specified in any Physically Settled Gas Futures Transaction.
- b. To Buyer – Title to and risk of loss of gas delivered under any Physically Settled Gas Futures Transaction shall pass to the Buyer during delivery at the receipt point specified in any Physically Settled Gas Futures Transaction.
- c. Regarding Exchange – In no event shall this Agreement be construed in a manner whereby title to and risk of loss of gas delivered under any Physically Settled Gas Futures Transaction would be the responsibility of Exchange.

8. Representations and Warranties of the Contracting Party

The Contracting Party represents and warrants in respect of any Physically Settled Gas Futures Transaction entered into by such Contracting Party that at the time of delivery or receipt:

- a. If it is the Seller:
 - (i) it has the full right and authority to sell gas;
 - (ii) it owns and has title to gas, or irrevocable authority to sell gas;
 - (iii) any gas delivered to Exchange shall be free from all royalty payments, Liens or encumbrances whatsoever; and
 - (iv) it has all necessary rights and entitlements with the applicable Delivery Point Operator for the delivery of gas on a firm basis at the applicable Delivery Point with sufficient inventory to deliver the net Daily Contract Quantity sold for each Gas Day.
- b. If the Buyer:
 - (i) it has the full right and authority to purchase gas; and
 - (ii) it has all necessary rights and entitlements with the applicable Delivery Point Operator to take gas on a firm basis at the applicable Delivery Point with sufficient capacity to take the net Daily Contract Quantity purchased for each Gas Day.

9. Liability

- a. Full Satisfaction – Upon payment, in accordance with this Agreement, of the amounts required to be paid by Exchange or the Contracting Party, as the case may be, in respect of any Failure to Deliver, Failure to Pay or Failure to Take in respect of such Physically Settled Gas Futures Transaction, Exchange or such Contracting Party shall have no further liability under such Physically Settled Gas Futures Transaction or this Agreement in respect of any such Failure to Deliver, Failure to Pay or Failure to Take.
- b. No Indirect Damages – Other than as specifically set forth in this Agreement, in no event shall Exchange or a party to a Physically Settled Gas Futures Transaction be liable under this Agreement or any Physically Settled Gas Futures Transaction for any special, consequential or indirect damages or claims, including without limitation, loss of profits or revenues, cost of capital or claims of any of the suppliers or customers of the Contracting Party arising out of any Failure to Deliver, Failure to Take or Failure to Pay or any other matter for which liability may be assessed under this Agreement or any Physically Settled Gas Futures Transaction.

10. Force Majeure

- a. Exchange May Declare Force Majeure – A force majeure event may be declared by Exchange at one of the U.S. Delivery Points if a U.S. Delivery Point Operator or U.S. Pipeline Operator declares a force majeure event or materially curtails, interrupts or prorates firm transportation services for a material number of Contracting Parties. Exchange also reserves the right to declare a force majeure if an event (including, but not limited to, a strike, lockout, national emergency, governmental action or act of God) occurs that materially affects the ability of a material number of Contracting Parties to meet their Obligations and that is beyond the control of the Contracting Parties.
- b. Exchange Will Not Declare Force Majeure – For clarity, Exchange will not declare a force majeure to the extent performance is affected by any of the following circumstances:
 - (i) the curtailment of interruptible or secondary firm transportation unless primary, in path, firm transportation is also curtailed;

- (ii) the failure of a Contracting Party to take commercially reasonable efforts to remedy a transportation, supply or market access issue including, but not limited to, changing upstream or downstream pipelines and/or corresponding supplies or markets;
 - (iii) the economic hardship of a Contracting Party, including, but not limited to, the Seller's ability to sell gas at a better price than the Purchase Price or the Buyer's ability to purchase gas at a better price than the Purchase Price or a regulatory authority disallowing, either in whole or in part, the pass through of costs resulting from this Agreement;
 - (iv) the loss of the Buyer's market or the Buyer's ability to use or resell gas purchased hereunder; or
 - (v) the loss or failure of the Seller's gas supply or depletion of reserves.
- c. **Effect of Force Majeure** – On any day that a force majeure event is declared at one of the U.S. Delivery Points, the Contracting Party's obligation to take or deliver gas pursuant to all Physically Settled Gas Futures Transactions at that U.S. Delivery Point shall be reduced by the same percentage as the curtailment, interruption or allocation for that day. Any Physically Settled Gas Futures Products affected by the force majeure event may be halted from trading for the duration of the force majeure event.

11. Procedures on Force Majeure Event

- a. Investigation – Exchange will, in consultation with the applicable Delivery Point Operator make a determination of whether a force majeure event exists and an estimate of its probable duration.
- b. Notice to Contracting Parties – If a force majeure event is determined by Exchange to exist (the "Force Majeure Declaration"), all affected Contracting Parties will be immediately notified by notice on Exchange's Website, phone, instant message or email:
 - (i) that the Force Majeure Declaration has been made;
 - (ii) the reduction in relevant obligations; and
 - (iii) which Physically Settled Gas Futures Products, if any, will be halted from trading.
- c. Title Transfer – The Seller, Buyer and Exchange will make all necessary changes to the applicable Delivery Point Operator Title Transfers to reflect the reduced obligations.
- d. Further Notice – Exchange will promptly advise the affected Contracting Parties of any material changes to the Force Majeure Declaration.

12. Invoice Amounts

- a. **Determination of Invoice Amounts** – Exchange will determine the amounts owing or payable on a monthly basis for the U.S. Delivery Points as follows:
 - (i) ~~for~~ **for** gas delivered or taken by multiplying:
 - (A) the portion of the Contract Quantity of gas delivered or taken at each of the U.S. Delivery Points under all Physically Settled Gas Futures Transactions for each Delivery Day of the given Month expressed in MMBtu's; by
 - (B) the Purchase Price, expressed in U.S. dollars per MMBtu for all Physically Settled Gas Futures Transactions for such Month; plus
 - (ii) all fees as outlined in the Fee Schedule; plus

(iii) any fees charged to Exchange by any of the applicable Delivery Point Operators for the Title Transfers pertaining to the delivery of gas under all such Physically Settled Gas Futures Transactions, if applicable; plus

(iv) any applicable taxes pursuant to Section 7 of the Terms and Conditions.

13. Interpretation

- a. Time – All times referred to herein are to Central Prevailing Time.
- b. Currency – All amounts of money referred to herein or in this Agreement in respect of the U.S. Delivery Points are in U.S. dollars.
- c. Interpretation – Capitalized words and phrases used in this Schedule and not defined in this Schedule will have the same meaning as set forth in this Agreement.

14. Definitions

"Assigned Delivery" with respect to a Physically Settled Natural Gas Contract means the process whereby Exchange does not mediate the delivery nominations process as described in Schedule G, and contracts where Assigned Delivery applies are identified in Schedule D with an asterisk denoting "AD";

~~"Bbtu" means billions (10⁹) British thermal units;~~

"gas" means natural gas as produced in its natural state that meets the quality standards defined in the applicable U.S. Delivery Point Operator's Tariff as outlined in the ICE NGX Product List;

"Gas Daily" means a publication entitled Platts Gas Daily published by Platts, a division of The McGraw-Hill Companies, Inc.;

"Gas Day" means a consecutive twenty-four (24) hour period starting and ending at 9:00 a.m. Central Clock Time;

"Henry Futures Settlement Price" is defined in the ICE NGX Price Index Methodology Guide;

"ICE NGX Index Methodology Guide" means a document published by Exchange on Exchange's Website that provides descriptions of methodology for determining and definitions of price indices;

"MMBtu" means 1,000,000 (10⁶) British thermal units;

"Month" means a month commencing on the first Gas Day of the calendar month and ending on the first Gas Day of the next calendar month;

"NAESB Timely Nomination Deadline" means timely nomination deadline set out by the North American Energy Standards Board, which may be revised from time to time;

"Post-Settlement Delivery Adjustment" is the volumetric adjustment to delivered gas amounts in respect of Physically Settled Gas Futures Transactions which adjustment is confirmed by the relevant U.S. Delivery Point Operator and notified to Exchange by the Contracting Party within 60 days following the end of the month in which delivery has occurred;

"Title Transfers" means a nomination for the transfer of gas as defined in the applicable U.S. Delivery Point Operator's Tariff as outlined in the ICE NGX Product List;

"Transportation Entitlement" means the rights and obligations with respect to the Title Transfer for natural gas to be delivered under a Physically Settled Gas Futures Transaction;

"U.S. Delivery Point Operator" means the applicable U.S. Delivery Point Operator at each Delivery Point as outlined in the ICE NGX Product List and "U.S. Delivery Point Operators" refers to them all collectively;

"U.S. Delivery Points" means all of the Delivery Points listed in the ICE NGX Product List that are designated as utilizing the assigned delivery nomination mechanism outlined in this Schedule "J";

"U.S. Pipeline Operator" means the applicable U.S. Pipeline Operator at each Delivery Point as outlined in the ICE NGX Product List and "U.S. Pipeline Operators" refers to them all collectively.