

STATEMENT OF OPERATING CONDITIONS

of

VALLEY CROSSING PIPELINE, LLC

**FOR TRANSPORTATION SERVICE PURSUANT TO SECTION 311 OF THE
NATURAL GAS POLICY ACT**

Any communication should be addressed to:

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**STATEMENT OF OPERATING CONDITIONS OF
VALLEY CROSSING PIPELINE, LLC FOR TRANSPORTATION SERVICE
PURSUANT TO SECTION 311(a)(2) OF THE NATURAL GAS POLICY ACT**

1. INTRODUCTORY STATEMENT

Valley Crossing Pipeline, LLC (“Transporter”) is an intrastate pipeline with Transporter’s Facilities located wholly within the State of Texas and is exempt from the jurisdiction of the Federal Energy Regulatory Commission (“FERC”) under the Natural Gas Act of 1938 (“NGA”). Transporter is a gas utility under Texas law and subject to the jurisdiction of the Railroad Commission of Texas (“RRC”). Transporter is also an intrastate pipeline within the meaning of Section 2(16) of the Natural Gas Policy Act of 1978 (“NGPA”) and provides interstate services pursuant to Section 311(a)(2) of the NGPA, as implemented by Subpart C of Part 284 of the regulations of the FERC. This Statement of Operating Conditions (“SOC”) provides terms and conditions under which Transporter will provide interstate transportation services pursuant to Subpart C of Part 284 of the regulations of the FERC, and specifically pursuant to 18 C.F.R. § 284.123(b)(2), to use such rates as summarized on the Statement of Rates attached hereto. If by providing interstate transportation services pursuant to these regulations, Transporter’s status as a pipeline that is exempt from NGA jurisdiction is impacted, altered, or threatened in any way, by virtue of any change in statutes, regulations, or other applicable law of any kind, then Transporter reserves the right to terminate all such interstate transportation services and all Contracts related thereto, and to withdraw this SOC, all effective on the Day before any such change in statutes, regulations, or other applicable law. Unless otherwise stated by transporter or provided by the FERC, and except as otherwise provided herein, this SOC shall become effective on the first day of the month this SOC is filed with the FERC.

2. DEFINITIONS

The following terms as used in this Statement of Operating Conditions shall have the meanings or definitions set forth below:

2.1 “Applicable Law” shall mean any act, order, code, rule or regulation of any court or Governmental Authority or agency with proper jurisdiction, domestic or foreign, applicable to a Contract or the activities thereunder, as same may be amended and in force from time to time.

2.2 “Authorized Operational Limitation Quantities” means quantities of gas scheduled by Transporter from Shipper’s Primary Point(s) of Receipt on the Header System (as such Facilities existed on the in-service date of the Nueces Header) not in excess of MDRO to Primary Point(s) of Delivery not in excess of the MDDO on the Header System (as such Facilities existed on the in-service date of the Nueces Header) that may be made available if Transporter determines that specific operational limitations applicable to Shipper’s Contract that would otherwise restrict Transporter’s ability to provide Firm Service up to a Shipper’s MDQ can be exceeded in any given nomination cycle on any given Day.

Quantities shall only be scheduled at Transporter's discretion, shall be scheduled in a not unduly discriminatory manner, and shall be nominated and scheduled in accordance with Section 6. Shipper shall only be charged the commodity charge and Fuel charge in Shipper's Firm Service Contract for these quantities.

- 2.3 "Brownsville Deliveries" shall mean deliveries from Primary Points of Receipt on the Nueces Header (up to the applicable MDRO) to a Primary Point of Delivery at the point of interconnection between the Nueces Header and the Brownsville Pipeline as those Facilities existed on the in-service date of the Brownsville Pipeline (up to the applicable MDDO). All Brownsville Deliveries must be made using Brownsville Pipeline Compressor Station One capacity.
- 2.4 "Brownsville Pipeline" or "Pipeline System" means the portion of Transporter's Facilities interconnecting with the Header System in Nueces County, Texas, beginning at Brownsville Pipeline Compressor Station One, and extending through South Texas to the terminus of Transporter's Facilities offshore in Texas State Waters.
- 2.5 "Brownsville Pipeline Compressor Station One" shall mean the northernmost compressor station on the Brownsville Pipeline at the interconnection between the Nueces Header and the Brownsville Pipeline as those Facilities existed on the in-service date of the Brownsville Pipeline. The capacity of the Brownsville Pipeline Compressor Station One (2.64 Bcf/day inclusive of fuel for Brownsville Deliveries) is designed to be utilized to effectuate either (i) Brownsville Deliveries or (ii) Compressed Header Deliveries.
- 2.6 "Btu" means British Thermal Unit(s), which shall equal the amount of heat required to raise the temperature of one (1) avoirdupois pound of pure water from 58.5 degrees Fahrenheit to 59.5 degrees Fahrenheit under standard conditions.
- 2.7 "Business Day" means any calendar day from Monday through Friday that is not a bank holiday in New York, State of New York, U.S.A.
- 2.8 "Combined Design Capacity" shall mean the design capacity for a Day for all compression that has been placed in service that may be utilized to effectuate Compressed Header Deliveries which shall be the sum of (i) Brownsville Pipeline Compressor Station One design capacity of 2.6 Bcf/day provided that it may be adjusted down to 2.5 Bcf/day in the event all receipts into the Nueces Header (as such Facilities existed on the in-service date of the Nueces Header) at the applicable time are from Low Pressure Receipt Points, plus (ii) the design capacity for any compressor addition on the Nueces Header that Foundation Customer has a right in its original Contract to require Transporter to install and is in service for such Day.
- 2.9 "Compressed Header Deliveries" means deliveries from Points of Receipt on the Nueces Header to Points of Delivery on the Nueces Header (excluding the point of interconnection between the Nueces Header and the Brownsville Pipeline) that

requires Combined Design Capacity facilities to effectuate such deliveries. Transporter shall make Compressed Header Deliveries using capacity of the Brownsville Pipeline Compressor Station One, any compressor addition included in the calculation of Combined Design Capacity, or any combination thereof as determined at Transporter's discretion.

- 2.10 "Contract" means a contract and all related exhibits between Transporter and Shipper for Firm or Interruptible Services.
- 2.11 "Conversion Gas" shall mean any quantity of Gas removed from Transporter's Facilities by any party without Transporter's authorization.
- 2.12 "Cubic Foot" shall mean the volume of Gas which occupies one (1) cubic foot of space, measured according to Boyle's and Charles' Laws for the measurement of Gas under varying pressures with deviation therefrom as provided in Section 11 hereof and on the measurement basis likewise specified in Section 11 hereof.
- 2.13 "Cubic Metre" or "m³" shall mean the volume of Gas which occupies one (1) cubic metre of space, measured according to Boyle's and Charles' Law for the measurement of Gas under varying pressures with deviation therefrom as provided in Section 11 of this Statement of Operating Conditions and on the measurement basis likewise specified in Section 11.
- 2.14 "Day" or "Gas Day" means the twenty-four (24) hour period beginning at 9:00 a.m. central time on a calendar day and ending at 9:00 a.m. central time on the following calendar day.
- 2.15 "Dth" means one dekatherm, which is a unit of energy equal to one million Btus.
- 2.16 "Electric Power Costs" shall mean all costs, fees, surcharges and other costs included in billings from third-party electric providers, or directly incurred by Transporter, for the operation of Transporter's electric-powered compressors and other facilities.
- 2.17 "Facilities" means the pipeline and associated facilities located in the State of Texas that are owned or controlled by Transporter and used to provide transportation service.
- 2.18 "FERC" means the United States Federal Energy Regulatory Commission or any successor agency.
- 2.19 "Firm" or "Firm Service" means service that is not subject to a prior claim by another Shipper or another class of service and receives the priority of service as set forth in Section 4.
- 2.20 "Foundation Customer" means a Shipper that has provided the revenue support for the initial Header System and Pipeline System as they existed on the in-

service date of those facilities pursuant to an intrastate Contract(s) for Firm Service that has a term of twenty (20) Years or longer.

- 2.21 “Fuel Gas” or “Fuel” means the incremental amount of Gas (for compressor fuel and lost and unaccounted for Gas), or financial equivalent of Gas, that shall be received by Transporter in excess of Shipper’s delivery quantity, as specified in Shipper’s Contract, up to, but not to exceed the percentage set forth in the Statement of Rates.
- 2.22 “Fuel Gas Percentage” means the percentage for compressor fuel, other company use and lost and unaccounted for Gas for Transporter’s Facilities as set forth in Shipper’s Contract.
- 2.23 “Gas” means a combustible gas consisting of methane and such other hydrocarbon constituents or a mixture of two or more of such constituents which meets the quality specifications set forth in Section 8 hereof.
- 2.24 “Governmental Authority” means any court or tribunal in any jurisdiction (domestic or foreign) or any federal, state, municipal, local, or foreign government or other governmental body, agency, authority (including any state attorney’s general office or office of consumer protection), department, commission, board, bureau, instrumentality, arbitrator or arbitral body (domestic or foreign), with proper jurisdiction, including FERC.
- 2.25 “High Pressure Receipt Points” means Points of Receipt (or Primary Points of Receipt, as applicable) where receipts have a designated minimum receipt pressure of 651 psig and deliveries have a maximum delivery pressure of 750 psig, and that may be re-designated as Low Pressure Receipt Points pursuant to Section 5.2.
- 2.26 “Internet Web site” means Transporter’s HTML site accessible via the Internet’s World Wide Web and located at <http://link.spectraenergy.com>.
- 2.27 “Interruptible” or “Interruptible Service” means that the capacity used to provide the service is not Firm and is subject to a prior claim by another Shipper or another class of service and receives a lower priority than such other classes of service.
- 2.28 “Joule” shall mean the work done by a force of 1 Newton with a displacement of 1 meter in the direction of the force.
- 2.29 “kiloPascal” shall mean kiloPascals of pressure absolute.
- 2.30 “Legal Proceeding” shall mean a preliminary or permanent injunction or other order, decree or ruling issued by a Governmental Authority, and no statute, rule, regulation or executive order promulgated or enacted by a Governmental Authority shall be in effect which restrains, enjoins, prohibits, or otherwise makes illegal the consummation of the transactions contemplated by a Contract.

- 2.31 “LINK® System” means Transporter’s electronic communications system, accessible via Transporter’s Internet Web site and located at <http://link.spectraenergy.com>, or such other system or website as may be designated by Transporter in the future, used to perform various functions, such as submitting a Request for Service pursuant to Section 3 below, submitting nominations, viewing invoices or other functions related to service on the Facilities.
- 2.32 “LINK® System Agreement” means the agreement that Shippers shall be required to execute in order to gain access to the LINK® System.
- 2.33 “Low Pressure Receipt Points” means Points of Receipt (or Primary Points of Receipt, as applicable) where receipts have a designated minimum receipt pressure of 580 psig and deliveries have a maximum delivery pressure of 650 psig, and that may be re-designated as High Pressure Receipt Points pursuant to Section 5.2.
- 2.34 “Maximum Daily Quantity” or “MDQ” means the maximum quantity of Gas, expressed in Dth, that Transporter is obligated to deliver for Shipper on any Gas Day, as specified in Shipper’s Contract.
- 2.35 “Mcf” means one thousand (1,000) cubic feet of Gas.
- 2.36 “MDDO” is the maximum daily delivery obligation, which means the maximum quantity of Gas, expressed in Dth, that Transporter is obligated to deliver on a Firm basis under a Contract for Firm Service to or on behalf of Shipper on any Gas Day at a given Primary Point of Delivery, as specified in Shipper’s Contract for Firm Service, at constant hourly rates of flow over the course of such Gas Day (excluding Fuel Gas).
- 2.37 “MDRO” is the maximum daily receipt obligation, which means the maximum quantity of Gas, expressed in Dth, exclusive of Fuel Gas retention quantities, that Transporter is obligated to receive on a Firm basis under a Contract for Firm Service for or on behalf of Shipper on any Gas Day at a given Primary Point of Receipt, as specified in Shipper’s Contract for Firm Service at constant hourly rates of flow over the course of the Gas Day (excluding Fuel Gas).
- 2.38 “MJ” shall mean one million (1,000,000) Joules.
- 2.39 “Month” means that period of time beginning at 9:00 a.m. central time on the first calendar day of a calendar month and ending at 9:00 a.m. central time on the first calendar day of the following calendar month.
- 2.40 “Nomination Delivery Rankings” shall mean a specified ordering of nominations chosen by the Shipper during time of entry within their Contract that is based on the Points of Delivery using values ranging from 1 to 999 with 1 being the most important Point of Delivery and 999 being the least important Point of Delivery.

- 2.41 “Non-Compressed Header Deliveries” means deliveries from Points of Receipt (or Primary Points of Receipt, as applicable) on the Nueces Header to Points of Delivery (or Primary Points of Delivery, as applicable) on the Nueces Header (excluding deliveries to the interconnection of the Nueces Header and the Brownsville Pipeline) that do not require compression to effectuate deliveries.
- 2.42 “Nueces Header” or “Header System” means the portion of Transporter’s Facilities located in Nueces County, Texas, that has various Points of Receipt and Points of Delivery with interconnecting third-party pipelines as well as at least one Point of Delivery at an interconnection with the Pipeline System.
- 2.43 “Point(s) of Delivery” means the point or points located on the Facilities at which Transporter has the physical capability to tender Gas to Shipper or for Shipper’s account.
- 2.44 “Point(s) of Receipt” means the point or points located on the Facilities at which Transporter has the physical capability to receive Gas from Shipper or for Shipper’s account.
- 2.45 “Primary Point of Delivery” shall mean a Point of Delivery specified in a Contract for Firm Service, at which Shipper has MDDO.
- 2.46 “Primary Point of Receipt” shall mean a Point of Receipt specified in a Contract for Firm Service, at which Shipper has MDRO.
- 2.47 “RRC” means the Railroad Commission of Texas or any successor agency.
- 2.48 “Shipper” means the party that has executed a Contract with Transporter.
- 2.49 “Statement of Operating Conditions” or “SOC” means this Statement of Operating Conditions setting forth Transporter’s terms and conditions of service.
- 2.50 “Statement of Rates” means the section of this SOC setting forth the currently effective maximum and minimum rates applicable to Firm and Interruptible Services and the applicable maximum allowable percentage for Fuel Gas.
- 2.51 “Suspense Gas” shall mean any quantity of Gas received by Transporter at a Point of Receipt which Transporter cannot identify under an existing service agreement with Transporter.
- 2.52 “Total Heating Value” shall mean the number of Joules, expressed in MJ per Cubic Metre (MJ/m³), produced by the complete combustion with air, of one dry Cubic Metre of Gas at a constant pressure of one hundred one and three hundred twenty-five thousandths (101.325) kiloPascals, and a temperature of fifteen (15) degrees Celsius when the products of combustion are cooled to the initial temperature, and the water formed by combustion is condensed to the liquid state.

2.53 “Year” means a period of twelve (12) consecutive months, commencing at 9:00 a.m. central time on a given date and ending at 9:00 a.m. central time on the same date the following year.

3. REQUEST FOR SERVICE

3.1 Allocation of Existing and Expansion Capacity. Unsubscribed capacity offered pursuant to this Statement of Operating Conditions shall be allocated via the “first-come, first-served” Request for Service procedures described in Section 3.2 below subject to existing contractual rights. Upon the availability of new capacity resulting from an expansion of Transporter’s Facilities, Transporter shall offer service utilizing such capacity to prospective customers, either via the “first-come, first-served” Request for Service procedures described in Section 3.2 below or through an open season process, with the selection of the procedures being at Transporter’s option.

3.2 Request for Service. Any Shipper or potential Shipper wishing to obtain service or to request an amendment to existing service shall execute a LINK® System Agreement and submit to Transporter a request for service electronically via the LINK® System (“Request for Service”), provided, Transporter may prepare and submit the Request for Service on behalf of Shipper where Shipper has executed a precedent agreement with Transporter for future service, and provided that in such circumstance, Shipper shall execute a LINK® System Agreement before service is provided on the Facilities. If Transporter and such Shipper mutually agree to the terms and provisions for service, Transporter shall, subject to credit approval and execution of a Contract, endeavor to provide service within the time specified in the Request for Service. The Request for Service shall be considered complete only if the information specified in Sections 3.3 and 3.4 below is provided to Transporter. Transporter shall have the right to reject any Request for Service that does not contain the required information set forth herein and shall have no liability to Shipper or any other entity in connection with such rejection. If Transporter rejects any request for service, Transporter shall notify Shipper via e-mail of its reason(s) for such rejection. Any agreement that is executed in full utilizing electronic transmission through the LINK® System is a valid and enforceable contract that is binding on all parties.

3.3 Information Requirements (excluding credit information).

3.3.1 Each Request for Service or a request for an amendment to existing service shall contain the information identified on the “Request for Service Information List” posted on Transporter’s Internet Web site, as such posted information requirements may be amended from time to time.

3.3.2 Requests for Service must include a statement electronically via the LINK® System, identifying the “on behalf of” entity(ies) that are warranted by Shipper to meet the provisions of Part 284 of the FERC’s

regulations, provided, Transporter may obtain such warranty in hard copy format where Shipper has executed a precedent agreement with Transporter for future service.

3.3.3 The Shipper or potential Shipper shall provide, either at the time the Request for Service or the request for an amendment to existing service is submitted to Transporter or at the time of execution of the Contract, such other information (if any), in writing, as may be required to comply with regulatory reporting or filing requirements.

3.3.4 The Shipper or potential Shipper shall provide, within five (5) Business Days of the submittal of the Request for Service, any credit information required to be provided pursuant to Section 3.4 below.

3.3.5 If Shipper or potential Shipper does not submit the information required in Sections 3.3.2 through 3.3.4 above within the required timeframes, the Request for Service shall be rejected by Transporter. In addition, any draft Request for Service created in the LINK® System by Shipper but not submitted to Transporter within ninety (90) calendar days after Shipper's initial creation of such request shall be rejected by Transporter at the conclusion of such ninety (90) calendar day period.

3.4 Credit. Prior to commencement of service or at any time thereafter, Transporter may require Shipper to supply Transporter with credit information including, but not limited to, bank and commercial references, financial statements in order that Transporter may make reasonable inquiry into Shipper's creditworthiness and obtain adequate assurance of Shipper's solvency and ability to perform. If at any time Transporter, in its opinion as tested in a commercially reasonable manner, is not satisfied with Shipper's credit or ability to perform or if Shipper has not paid invoices strictly in accordance with its Contract for service provided hereunder, Transporter shall have the right to demand reasonable security for payment including, but not limited to, full payment obligation guarantees from creditworthy parents, letters of credit, advance deposits, or any other security reasonably acceptable to Transporter. Pending Shipper's compliance with Transporter's demand, Transporter shall have the right to suspend service hereunder. If Shipper does not comply with Transporter's demand within thirty (30) calendar days of Transporter's demand, Transporter shall have the right to terminate this Contract. Transporter shall enforce this Section 3.4 in a commercially reasonable, non-discriminatory manner. Transporter may also require certain creditworthiness provisions to be included in Shipper's Contract as a prerequisite to providing service.

3.5 Subsequent Information. After receipt of a Request for Service or a request for an amendment to an existing service, Transporter may require that a potential Shipper furnish additional information as a prerequisite to Transporter offering to execute a Contract with the potential Shipper. Such information will be limited to

information reasonably necessary for Transporter to commercially evaluate a Request for Service or a request for an amendment to existing service and may include, but not be limited to, proof of the potential Shipper's lawful right to cause the Gas to be delivered to Transporter's Facilities and of the potential Shipper's contractual or physical ability to cause such Gas to be delivered to and received from the Facilities.

- 3.6 Term. The term of any Contract hereunder shall be governed by the Contract entered into by Shipper and Transporter. Notwithstanding any other provisions of this SOC, Transporter's obligation to provide transportation service pursuant to a Contract executed pursuant to this SOC shall terminate at the earlier of (1) the date provided for in the applicable Contract with the Shipper or (2) the date on which Transporter determines to cease transporting gas on a firm or interruptible basis pursuant to Section 311(a)(2) of the NGPA. Unless otherwise indicated in the Contract for service, Shipper shall have no contractual remedy, and Transporter shall have no liability, for transportation service related to periods subsequent to the termination of Section 311(a)(2) service.
- 3.7 Execution of Contracts. A Contract shall be executed by Shipper and Transporter following the completion of the approval process. All Contracts shall be executed by Shipper and Transporter pursuant to reasonable procedures established by Transporter. Transporter may require Shipper to execute separate Contracts for service on the Nueces Header and the Brownsville Pipeline. Transporter shall require Shipper to execute one or more Contract(s) for service depending on the requested type of service (e.g., Firm or Interruptible; interstate or intrastate). If Transporter has tendered a Contract for execution to a potential Shipper, such Contract shall be executed within fifteen (15) calendar days from the date Shipper was notified or the Contract was tendered by Transporter but in no event later than the date service commences under the Contract. For Firm Service, Transporter will not be required to tender a Contract to a potential Shipper for execution that relates to Requests for Service for which Transporter does not have sufficient available Firm capacity.
- 3.8 Mutual Representation and Warranties. Upon execution of a Contract, Transporter and Shipper represent and warrant to the other party that the Contract: (i) has been validly executed and delivered by such party; (ii) the performance of its obligations thereunder have been duly authorized by all action necessary for the authorization thereof by such party; and constitutes the legal, valid, and binding obligation of such party, enforceable against it in accordance with its terms, subject to laws and equitable remedies affecting the rights of creditors generally; (iii) the performance of its obligations thereunder will not give rise to any breach of a fiduciary, contractual, or other obligation it has or may have; and (iv) no Legal Proceeding shall be in effect which restrains, enjoins, prohibits, or otherwise makes illegal the consummation of the transactions contemplated by the Contract.

- 3.9 Extension of Contracts. Prior to the expiration of the term of a Contract, Transporter and Shipper may mutually agree to an extension of the term of the Contract (the exact length of which is to be agreed upon on a case-by-case basis, in a not unduly discriminatory manner).
- 3.10 Shipper's Performance. Shipper is required to provide to Transporter any and all information reasonably required in order for Transporter to comply with any regulatory reporting or other requirements.
- 3.11 Transporter shall not be required to provide transportation service if:
- (i) providing such service would cause Transporter to have insufficient capacity or operational capability to meet its contractual obligations to provide service to a class level with a higher priority;
 - (ii) providing such service would require Transporter to purchase or increase purchases of Gas;
 - (iii) providing such service would, in Transporter's reasonable judgment, be detrimental to Transporter's operations;
 - (iv) providing such service would impair the service Transporter provides to its existing Shippers;
 - (v) all Facilities necessary to effectuate the service are not in existence at the time the Request for Service is made or expansion of Transporter's existing Facilities is necessary to effectuate the requested service;
 - (vi) Shipper fails to comply with the terms of this SOC, the terms of its Contract, or applicable legal and regulatory provisions, subject to any applicable cure periods in the Contract;
 - (vii) providing such service would result in Transporter obtaining less than a just and reasonable rate applicable for such service; or
 - (viii) receipt of any Gas at any Point(s) of Receipt or delivery of any Gas at any Point(s) of Delivery, may, in Transporter's reasonable discretion, be detrimental to the operation of Transporter and any attendant facilities owned by and/or located on Transporter, including any processing and/or straddle plants located on Transporter's Facilities.
- 3.12 Information.
- 3.12.1 Any person may request information by contacting Transporter at the following:
- Valley Crossing Pipeline, LLC
Attn: Marketing Department

5400 Westheimer Court
Houston, Texas 77056-5310
Telephone: 1-800-827-LINK or in Houston, 713-989-LINK

- 3.12.2 A list of phone numbers for Transporter's dispatch and control personnel, who are on-call 24-hours a Day, will be posted on Transporter's Internet Web site.
- 3.12.3 Each Shipper will provide to Transporter a list of phone numbers of Shipper's personnel who will be available, including those on a 24-hour a Day basis.

4. PRIORITY, SCHEDULING AND CURTAILMENT OF SERVICE

4.1 Priority of Service. Any Shipper executing a Contract with Transporter shall be entitled to transportation service in the following order of declining priority, as applicable:

4.1.1 Firm Service as follows:

- 4.1.1.1 Service from Primary Point(s) of Receipt on the Header System not in excess of MDRO to Primary Point(s) of Delivery not in excess of the MDDO (i) at the point(s) of interconnection between the Nueces Header and the Pipeline System, including Brownsville Deliveries, or (ii) on the Pipeline System, and from Primary Point(s) of Receipt not in excess of MDRO on the Pipeline System to Primary Point(s) of Delivery not in excess of MDDO on the Pipeline System as nominated and scheduled in accordance with Section 6.
- 4.1.1.2 Service from Primary Point(s) of Receipt on the Header System not in excess of MDRO to Primary Point(s) of Delivery on the Header System not in excess of the MDDO, which does not require compression (Non-Compressed Header Deliveries), as nominated and scheduled in accordance with Section 6. Transporter's ability to schedule deliveries under this Section 4.1.1.2 may be subject to operational limitations on the Header System.
- 4.1.1.3 Service from Primary Point(s) of Receipt on the Header System not in excess of MDRO to Primary Point(s) of Delivery not in excess of the MDDO on the Header System, which requires compression (Compressed Header Deliveries), as nominated and scheduled in accordance with Section 6. Transporter's ability to

schedule deliveries under this Section 4.1.1.3 may be subject to operational limitations on the Header System.

- 4.1.2 Authorized Operational Limitation Quantities pursuant to Section 4.3 below.
 - 4.1.3 Interruptible Service pursuant to Section 4.2 below.
 - 4.1.4 Quantities scheduled at Transporter's discretion to resolve imbalances under a Contract for Firm Service, for Authorized Operational Limitation Quantities, or imbalances between Transporter and an interconnecting party at a Point of Receipt or Point of Delivery.
 - 4.1.5 Quantities scheduled at Transporter's discretion to resolve imbalances under a Contract for Interruptible Service.
- 4.2 Interruptible Service: As applicable based on the operational constraint, Interruptible Service shall have priority in the following order of declining priority:
- 4.2.1 For any Interruptible Service, with the order of priority relating to requests for Interruptible Service based on the economic value to Transporter, as determined by Transporter, including consideration of the overall system operations and operational limitations existing at the time as well as the applicable rates agreed to by Transporter and Shipper, with the transaction generating the highest overall economic value to Transporter given highest priority.
 - 4.2.2 Should two or more Shippers requesting Interruptible Service have the same priority, as determined pursuant to Section 4.2.1, capacity will be allocated to each Shipper on a pro rata basis, according to the quantities nominated by each Shipper.
- 4.3 Authorized Operational Limitation Quantities shall be scheduled at Transporter's discretion and be scheduled pro rata based on quantities nominated by Shippers, but in no event shall any Shipper's nomination that exceeds their respective MDQ be considered in scheduling Authorized Operational Limitation Quantities.
- 4.4 Ties for activities within individual Contracts will be allocated based on Nomination Delivery Rankings. In the absence of Nomination Delivery Rankings, capacity will be allocated pro rata based on quantities nominated. Additionally, where two or more nominations have the same Nomination Delivery Rankings, capacity will be allocated among the equally ranked nominations pro rata based on quantities nominated.
- 4.5 Should two or more Shippers requesting Firm Service have the same priority and Transporter cannot schedule all quantities, capacity will be allocated to each

Shipper on a pro rata basis, according to the quantities nominated by each Shipper.

4.6 Curtailement of Service.

4.6.1 If on any Gas Day, due to any cause whatsoever, Transporter's capability to receive or deliver Gas is impaired so that Transporter, in its discretion, determines that it is unable to receive or deliver all the quantities which are scheduled, then Transporter shall reduce scheduled service at the affected Point(s) of Receipt or Delivery in the reverse order of priority set forth in Section 4.1 beginning with quantities described in Section 4.1.5. If Firm Service must be curtailed, curtailment of Firm Service shall be done on a pro rata basis according to scheduled quantities in the reverse order of priority set forth in Section 4.1.1. If Authorized Operational Limitation Quantities must be curtailed, curtailment of Authorized Operational Limitation Quantities shall be done pro rata based on scheduled quantities. Curtailment of Interruptible Service shall be made based on the economic value to Transporter in the reverse order of priority set forth in Section 4.2, with the transaction generating the lowest economic value to Transporter being curtailed first. Any ties for Interruptible Service shall be curtailed on a pro rata basis, according to the quantities scheduled for each Shipper.

4.6.2 Ties for activities within individual Contracts will be allocated based on Nomination Delivery Rankings. In the absence of Nomination Delivery Rankings, capacity will be allocated pro rata based on quantities nominated. Additionally, where two or more nominations have the same Nomination Delivery Rankings, capacity will be allocated among the equally ranked nominations pro rata based on quantities nominated.

4.6.3 Transporter shall provide Shipper as much advance notice of any curtailment as is practicable under the circumstances. Such notice shall be made by e-mail or via the LINK® System, as appropriate, and shall state the reduced quantities of Gas that Transporter estimates it will be able to transport for Shipper and the estimated duration of the curtailment.

4.7 Curtailement Liability. Transporter shall not be liable for any loss or damage to any person or property caused, in whole or in part, by any curtailment of service, except to the extent caused solely by Transporter's gross negligence or willful misconduct. Shipper agrees to indemnify Transporter from and against any and all claims resulting from, arising out of, or in any way related to a curtailment of Shipper's service, regardless of cause (but not to the extent caused by the gross negligence or willful misconduct of Transporter).

- 4.8 Non-Compressed Header Deliveries. Transporter shall be obligated to make Non-Compressed Header Deliveries pursuant to Section 4.1.1.2 provided one or both of the following circumstances applies: (i) sufficient differential pressure exists, and exists throughout the Day, between the operating pressure of that section of the Nueces Header that is used to effectuate deliveries of the nominated quantities and the operating pressure of the Points of Delivery (or Primary Points of Delivery, as applicable) that are nominated; or (ii) a receipt at a Point of Receipt (or Primary Point of Receipt, as applicable) and a delivery at a Point of Delivery (or Primary Point of Delivery, as applicable) are nominated at the same location. The nominated receipt volume must also be equal to or greater than the nominated delivery volume and both the receipt and delivery nominations are scheduled and remain scheduled throughout the Gas Day.
- 4.9 Posting. On the LINK® System, Transporter shall (i) post design and/or operational limitations as soon as practicable when applicable, to be determined by Transporter; (ii) post and update the compressor capacity that is available to make deliveries to the Brownsville Pipeline or other Points of Delivery on the Nueces Header after each nomination cycle is complete on each Gas Day; and (iii) will post and update as necessary High Pressure Receipt Point and Low Pressure Receipt Point designations.

5. OPERATIONS

- 5.1 Receipts and Deliveries. Shipper shall tender or cause to be tendered to Transporter at the Point(s) of Receipt any Gas which Shipper desires to be transported plus the applicable Fuel Gas quantity. Shipper shall also receive or cause to be received Gas requested from the Point(s) of Delivery upon tender for delivery by Transporter of Gas transported.
- 5.2 Operating Conditions. Subject to the operating conditions of upstream and downstream facilities and Transporter's Facilities, Transporter shall receive Gas from Shipper at the Point(s) of Receipt and deliver Gas to Shipper at the Point(s) of Delivery, as nominated by Shipper and scheduled by Transporter from time to time. Transporter shall not be obligated on any Day to receive any quantity of Gas in excess of Shipper's Maximum Daily Quantity (excluding Fuel Gas). Transporter shall not be obligated on any Day to deliver to Shipper any quantity of Gas that is greater than Shipper's Maximum Daily Quantity (excluding Fuel Gas).

On any Gas Day, at Transporter's discretion, Transporter may re-designate a High Pressure Receipt Point as a Low Pressure Receipt Point or a Low Pressure Receipt Point as a High Pressure Receipt Point to optimize Firm Service utilization on the Nueces Header under prevailing operating conditions; provided, Transporter's re-designation shall not (i) reduce a Shipper's MDDO, MDRO, or MDQ as set forth in their Contract; (ii) change the minimum receipt pressures or maximum delivery pressures for such point as set forth in their Contract; or (iii)

result in more restrictive operational limitations than those set forth in their Contract.

- 5.3 Default. Transporter may suspend or terminate service for a breach or default by Shipper under a Contract, including without limitation, Shipper's breach or default of any part of this Statement of Operating Conditions, subject to any notice and cure periods set forth in a Contract for service.
- 5.4 Foundation Customer. Notwithstanding anything written to the contrary herein, a Foundation Customer may have preferential rights as set forth in one or more contract(s) for intrastate services and other related agreements between such Foundation Customer and Transporter that were effective before the initiation of service under Section 311(a)(2) of the NGPA. These rights may include, but are not limited to, most favored nations rights, revenue and demand charge crediting, rights of first refusal, delivery obligations and remedies, credit support obligations, and other such rights and obligations as agreed to by the Foundation Customer and Transporter in the applicable, aforementioned agreement(s). Shipper may transfer or assign rights and obligations in limited circumstances as set forth in the applicable Firm intrastate service contract(s), but these rights and obligations are only assignable if all rights and capacity, including the entirety of the MDQ, MDRO and MDDO, under the intrastate service contract(s) and any related agreement between Transporter and the Foundation Customer associated with the Facilities are also assigned.
- 5.5 Intrastate Service. The intrastate services that Transporter offers and performs are subject to the exclusive jurisdiction of the RRC. To provide Shippers with flexibility to access intrastate and/or interstate markets, Shippers may contract for both intrastate and interstate service on mutually agreeable terms, including a limitation that Shipper's combined usage under the intrastate and interstate contracts cannot exceed the MDQ, MDRO, and/or MDDO under a single contract (i.e., MDQ, MDRO, and MDDO are aggregate limits); provided, however, that Transporter's provision of interstate service, without undue discrimination, shall not be conditioned on Shipper's subscription to Firm intrastate capacity and Transporter's provision of intrastate service, without undue discrimination, shall not be conditioned on Shipper's subscription to Firm interstate capacity. In the circumstance where a Shipper subscribes to service as described above, Transporter may place restrictions on future temporary or permanent assignments of capacity with regard to MDQ, MDRO, MDDO, and other contractual rights and obligations on both Shipper's intrastate and interstate contracts, including those related to co-termination. The description of available services contained herein is provided for informational purposes only and shall not be construed to make any intrastate services provided for herein subject to FERC regulation.

6. NOMINATION

- 6.1 Nominations. For any Gas Day when Shipper desires service under its Contract, Shipper shall submit a nomination via the LINK® System, unless another form of

submittal has been mutually agreed upon by Shipper and Transporter, that includes but is not limited to the following information: flow date(s), Point of Receipt, Point of Delivery, desired quantities at the Point of Receipt and Point of Delivery, upstream transportation party (for receipts of Gas), downstream transportation party (for deliveries of Gas), Shipper name and Contract number. Shipper acknowledges and represents that Shipper's Gas nominated for receipt and delivery by Transporter satisfies the quality specifications set forth in Section 8. Transporter shall allow Shippers to revise nominations any time prior to the end of the Gas Day being scheduled provided such revision may be implemented, in Transporter's reasonable judgment, by Transporter without detriment to any Shipper and provided such change can be confirmed in a timely manner with Shipper's upstream and downstream parties. In the event this flexible nomination procedure is inapplicable for any reason, including operational limitations on the Facilities, nominations shall be submitted and processed in accordance with the nomination cycles in Section 6.2 below. All nominations shall be based on a daily quantity. Receipts and deliveries of Gas shall be at uniform hourly rates of flow unless otherwise mutually agreed by Shipper and Transporter. Transporter will not be obligated, during any hour, to receive a total quantity of Gas at any Point of Receipt or to deliver a total quantity of Gas at any Point of Delivery in excess of one twenty-fourth (1/24) of the lesser of (i) Shipper's MDRO for service at such Point of Receipt or Shipper's MDDO for service at such Point of Delivery and (ii) Shipper's scheduled nomination at such Point of Receipt or Point of Delivery, and Transporter may impose such restriction, whenever, in Transporter's reasonable judgment, such restriction is necessary in order to meet its overall pipeline receipt and/or delivery obligations. If a Shipper temporarily requires receipts at any Point of Receipt or deliveries at any Point of Delivery in excess of such restriction, Transporter will, on request of Shipper, consult with Shipper in an effort to accommodate the request to the extent compatible (in Transporter's reasonable judgment) with Transporter's operations, including the needs of, and service nominated by, all of Transporter's Shippers.

By submitting a nomination for a receipt and delivery on the Header System, Shipper acknowledges that (i) certain design and/or operational limitations (to be posted on the LINK® System as soon as practicable when applicable) may exist on the Header System; (ii) all nominations, including nominations for Firm Service, made by Shipper are subject to those limitations; (iii) nominations may not be scheduled due to those limitations; (iv) capacity available for scheduling or compressor capacity necessary to schedule certain service, may decline throughout the Gas Day as the nomination cycles set forth in Section 6.2 are completed due to such limitations; (v) in the event capacity is limited pursuant to (iv), Transporter will not bump previously scheduled Firm quantities in subsequent nomination cycles and will not bump any previously scheduled quantities in subsequent nomination cycles other than to schedule service with a higher priority as set forth in Section 4; and (vi) Transporter may undertake procedures in the LINK® System on behalf of Shipper (to the extent necessary) to effectuate Shipper's nominations, subject to the terms of this SOC and such operational limitations.

6.2 Nomination Cycles.

6.2.1 Transporter shall support the nomination cycles defined below:

- (a) The Timely Nomination Cycle: 1:00 p.m. for nominations leaving control of the nominating party; 1:15 p.m. for receipt of nominations by Transporter; 1:30 p.m. for Transporter to send a quick response to nominating party; 4:30 p.m. for receipt of completed confirmations by Transporter from upstream and downstream parties; 5:00 p.m. to provide scheduled quantities to Shipper and point operator (central clock time on the Day prior to flow).
- (b) The Evening Nomination Cycle: 6:00 p.m. for nominations leaving control of the nominating party; 6:15 p.m. for receipt of nominations by Transporter; 6:30 p.m. for Transporter to send a quick response to nominating party; 8:30 p.m. for receipt of completed confirmations by Transporter from upstream and downstream parties; 9:00 p.m. for Transporter to provide scheduled quantities to affected Shippers and point operators, (central clock time on the Day prior to flow). Scheduled quantities resulting from an Evening Nomination shall be effective at 9:00 a.m. on the Gas Day.
- (c) The Intraday 1 Nomination Cycle: 10:00 a.m. for nominations leaving control of the nominating party; 10:15 a.m. for receipt of nominations by Transporter; 10:30 a.m. for Transporter to send a quick response to nominating party; 12:30 p.m. for receipt of completed confirmations by Transporter from upstream and downstream parties; 1:00 p.m. for Transporter to provide scheduled quantities to affected Shippers and point operators, (central clock time on the Day of flow). Scheduled quantities resulting from Intraday 1 Nominations shall be effective at 2:00 p.m. on the current Gas Day.
- (d) The Intraday 2 Nomination Cycle: 2:30 p.m. for nominations leaving control of the nominating party; 2:45 p.m. for receipt of nominations by Transporter; 3:00 p.m. for Transporter to send a quick response to nominating party; 5:00 p.m. for receipt of completed confirmations by Transporter from upstream and downstream parties; 5:30 p.m. for Transporter to provide scheduled quantities to affected Shippers and point operators (central clock time on the Day of flow). Scheduled quantities resulting from Intraday 2 Nominations shall be effective at 6:00 p.m. on the current Gas Day.

- (e) The Intraday 3 Nomination Cycle: 7:00 p.m. for nominations leaving control of the nominating party; 7:15 p.m. for receipt of nominations by Transporter; 7:30 p.m. for Transporter to send a quick response to nominating party; 9:30 p.m. for receipt of completed confirmations by Transporter from upstream and downstream parties; 10:00 p.m. for Transporter to provide scheduled quantities to affected Shippers and point operators (central clock time on the Day of flow). Scheduled quantities resulting from Intraday 3 Nominations shall be effective at 10:00 p.m. on the current Gas Day. Bumping is not allowed during the Intraday 3 Nomination Cycle.
- 6.2.2 Nominations will be processed for scheduling in accordance with Section 4 of this Statement of Operating Conditions.
 - 6.2.3 Notices provided to Transporter pursuant to this Section 6 must be submitted via the LINK® System, unless another form of submittal has been mutually agreed upon by Shipper and Transporter. All notices required to be provided to Shipper pursuant to this Section 6 shall be provided via the LINK® System. Shipper shall provide notice of any changes in deliveries to or receipt from Transporter to Shipper's upstream and downstream connected parties and shall be responsible for, and shall hold Transporter harmless from, any and all liabilities and expense resulting from any such changes.
 - 6.2.4 In the event Shipper does not submit a timely nomination or desires to alter an existing nomination, Shipper shall have the right to submit an intraday nomination to revise Shipper's scheduled quantities, Point(s) of Receipt and/or Point(s) of Delivery on a prospective basis prior to the end of the Gas Day; provided, however, that such intraday nomination will be processed after all timely nominations have been scheduled and are subject to then existing capacity limitations. Such intraday nomination shall be implemented by Transporter to the extent and only to the extent that Transporter is able to confirm the receipt and delivery of such Gas at the Point(s) of Receipt and Point(s) of Delivery, capacity is available, and scheduling such quantities will not act in any way as to reduce previously scheduled Firm quantities (with no bumping of any kind allowed during the Intraday 3 Nomination Cycle). The interconnected parties should agree on the hourly flows of the intraday nomination, if not otherwise addressed in the interconnected parties' contract or tariff.
 - 6.2.5 With respect to intraday nominations for reductions in previously scheduled quantities, Transporter may, but is not required to, accept any explicitly confirmed quantity, down to and including zero, for such intraday nomination; provided, however, if such intraday nomination requires confirmation from an upstream and/or

downstream interconnected pipeline, then any intraday nomination to reduce previously scheduled quantities will be subject to, and limited to, the reduced quantity confirmed by such upstream and/or downstream interconnected pipeline.

6.2.6 In the event a Shipper elects service pursuant to Section 5.4 and Shipper's nominations conflict such that contractual limitations are exceeded, Transporter will resolve the conflict such that the nominations will be processed using either or a combination of (i) Nomination Delivery Rankings or (ii) the order in which the nominations were received by Transporter, unless Shipper and Transporter otherwise agree.

6.3 Planned Maintenance. Shipper acknowledges that Transporter will, from time to time, engage in routine and normal maintenance of the system, undertake repairs and replacements of lines of pipe, schedule U.S. DOT compliance activities, install taps and other new facilities, make pig runs, test equipment, check or change compressor internals for different flow conditions, or engage in other similar actions affecting the capacity of any portions of Transporter's Facilities. Transporter shall issue notices pursuant to this Section 6.3 to inform all Shippers of such planned maintenance or other activities that will affect the capacity of its Facilities, explaining in detail the action and the Facilities affected. Such notice shall be issued via posting on the LINK® System. Transporter shall give written notice of planned maintenance to Shippers at least thirty (30) calendar days in advance, unless and as otherwise agreed. Transporter shall also provide such notification via e-mail communication to those Shippers that have provided e-mail address information for at least one contact person and have requested via the LINK® System e-mail notification of maintenance notices issued by Transporter. A notice issued pursuant to this Section 6.3 will specify the date on which the maintenance will commence and will contain an estimate of the time, duration, and impact of the maintenance activity. Planned maintenance and unplanned maintenance shall be coordinated with Shippers' operating and maintenance schedules. Such maintenance shall occur contemporaneously with Shippers' schedules to the extent reasonably practicable. Transporter shall exercise due diligence to schedule routine repair and maintenance so as to minimize disruptions of service to Shippers but shall have no liability to Shipper for such disruption. This provision is in addition to, but not co-extensive with, the force majeure provision contained in Section 16 of this Statement of Operating Conditions. A notice issued pursuant to this Section 6.3 shall be canceled when such planned maintenance or other activities have been completed.

7. PRIMARY POINT(S) OF RECEIPT AND PRIMARY POINT(S) OF DELIVERY

7.1 Primary Point Limitations.

7.1.1 Primary Point(s) of Receipt. The quantity of Gas tendered by Shipper shall not exceed, at each Primary Point(s) of Receipt, the MDRO for

such Primary Point of Receipt plus the applicable Fuel Gas, and the quantity of Gas tendered by Shipper at all Primary Point(s) of Receipt shall not exceed the MDQ plus applicable Fuel Gas. A Shipper's MDRO at any single Primary Point of Receipt shall not exceed the MDQ under the applicable Contract for Firm Service.

7.1.2 Primary Point(s) of Delivery. The quantity of Gas delivered to Shipper shall not exceed, at each Primary Point(s) of Delivery, the MDDO for such Primary Point of Delivery, and the quantity of Gas delivered to Shipper at all Primary Point(s) of Delivery shall not exceed the MDQ. A Shipper's MDDO at any single Primary Point of Delivery shall not exceed the MDQ under the applicable Contract for Firm Service.

7.2 Transportation Guidelines. The rules, guidelines, operational procedures and policies of Shipper's upstream and downstream connected parties, as they may be changed from time to time, shall define and control the manner in which Gas is delivered and received at the Point(s) of Delivery and Point(s) of Receipt. Transporter and Shipper each agree to provide to the other, in as prompt a manner as reasonable, all information necessary to permit scheduling pursuant to such requirements. In addition, Transporter will not be required to receive or deliver Gas for a Shipper unless and until the nominations provided for in Section 6.1 have been confirmed by any such upstream and downstream connected parties.

7.3 Transportation Imbalances.

7.3.1 In the event that Transporter or Shipper delivers or causes to be delivered at the Point(s) of Receipt or Point(s) of Delivery a quantity of Gas not equal to the quantity of Gas received or taken by Shipper or Transporter, a "Transportation Imbalance" may occur. Provided that Transporter has received or delivered the quantity of Gas nominated by Shipper and scheduled by Shipper's upstream and downstream connected parties, Shipper shall be liable for all imbalances under its transportation agreements with Shipper's upstream and downstream connected parties and shall be required to reimburse Transporter for all charges, penalties, costs, fees and expenses which Transporter is required to pay to Shipper's upstream and downstream connected parties as a consequence of Shipper's actions. The recovery of such penalty amounts shall be on an as-billed basis. Upon notification by Shipper or Shipper's upstream or downstream connected party that a Transportation Imbalance exists because Transporter failed to deliver or receive the quantity of Gas nominated by Shipper and scheduled by Shipper's upstream or downstream connected party, Transporter will endeavor to correct the Transportation Imbalance subject to any restrictions imposed by Shipper's upstream or downstream connected party but Transporter shall be solely liable for any charges, penalties, costs, fees and expenses incurred or payable by either party as a result

of the Transportation Imbalance. Shipper agrees to use its best efforts to prevent or diminish any occurrences of imbalances.

7.3.2 In the event that a Transportation Imbalance exists under Shipper's Contract during the Month, Shipper agrees to use its best efforts to nominate service during the Month to eliminate such Transportation Imbalance. If any quantity of Transportation Imbalance under Shipper's Contract for a Month exists at the end of such Month ("Cash-out Quantity"), an invoice for the amount due Transporter or a credit for the amount due Shipper, as determined below, will be rendered with the invoice for the service that Transporter provided to Shipper during the immediately succeeding Month. The amount due Transporter or the credit due Shipper, as applicable, to resolve the Cash-out Quantity shall be determined by multiplying the "Spot Index Price" (defined in the following sentence) for the Month during which the Transportation Imbalance occurred by the Cash-out Quantity. The "Spot Index Price" shall be the simple arithmetic average of Platts *Gas Daily* "Daily Price Survey" Midpoint prices for "Tx. Eastern, STX," "NGPL, STX," and "Tennessee, zone 0" as such prices are posted each day of the applicable Month and the first seven (7) days of the subsequent Month. In the event that this Spot Index Price is no longer published, Transporter will file to change this Statement of Operating Conditions to reflect a new Spot Index Price that is based upon a published index using transaction level data from Gas sales occurring at locations on or in close proximity to the Header System, and Transporter may, at its discretion, select a reasonable Spot Index Price for the interim period until such new Spot Index Price becomes effective.

7.4 Costs and Penalties. Shipper shall hold Transporter harmless for all costs and penalties which may be assessed by Shipper's upstream or downstream connected party under Shipper's transportation agreement with Shipper's upstream or downstream connected party. Shipper and Transporter shall cooperate with each other and with Shipper's upstream and downstream connected parties to verify delivery and receipt of the quantities of Gas delivered under Shipper's Contract on a timely basis.

7.5 Downstream and Upstream Transportation. Shipper shall be responsible for any transportation by an interconnected party from the Point(s) of Delivery and payment of all transportation charges relating thereto. Shipper shall be responsible for any transportation by an interconnected party to the Point(s) of Receipt and payment of all transportation charges relating thereto.

7.6 Commingling of Gas. From the time Gas is received by Transporter at the Point(s) of Receipt, Transporter shall have the unqualified right to commingle such Gas with other Gas on Transporter's Facilities.

7.7 Accounting Meters. In certain situations, Transporter may use an accounting meter number to represent a physical location on its Facilities. A Point of Receipt and/or a Point of Delivery identified on Shipper's executed Contract(s) may be designated in the LINK® System by means of an accounting meter number and description that differs from the physical meter number and description specified on the Contract. The same rights and obligations exist for both Transporter and Shipper regardless of whether a location is identified in Shipper's executed Contract by means of a physical meter number or an accounting meter number.

7.8 Operational Balancing Agreements. Transporter or its designee will use commercially reasonable efforts to enter into operational balancing agreements or similar arrangements with the operators of the interconnecting pipelines at the Point(s) of Receipt and Delivery so that receipts and deliveries for Shipper's account remain in balance. Shipper will not be charged a balancing fee as long as such operators or their successors or assigns do not require payment or reimbursement of a balancing fee of any kind. In all other cases, Transporter shall pass through any such fee to Shipper pursuant to the terms of Section 15.

7.9 Suspense Gas.

All Suspense Gas shall be subject to the provisions of this Section 7.9. In the event that Suspense Gas is received and identified by Transporter during a Month, Transporter shall post on the LINK® System the quantity, production Day(s) received on the system, and the Point(s) of Receipt for any Suspense Gas received during such Month, for a period of 15 days after the end of such Month, inclusive of the initial date of posting, or until a valid claim has been submitted by a "Claimant." Claimant, as a Shipper, agrees to pay the transportation rate applicable to the period beginning when the Suspense Gas was received by Transporter and ending when the quantity of Suspense Gas is delivered. All such claimed Suspense Gas must be transported and delivered before the end of the Month in which the Gas is claimed. Claimant's failure to transport and deliver all of such Suspense Gas quantity before the end of such period shall subject such undelivered quantities to Section 7.3.2. If a valid claim is not submitted during the notice period, title to the unclaimed Suspense Gas is vested in Transporter and Transporter shall retain the unclaimed Gas with no payment required from Transporter and without recourse from any party.

7.10 Conversion Gas.

All Conversion Gas shall be subject to the provisions of this Section 7.10. Any party identified by Transporter as having taken Conversion Gas shall pay to Transporter an amount calculated as 125 percent of the arithmetic average of *Platts Gas Daily* daily price survey Midpoint prices for "Tx. Eastern, STX," "NGPL, STX," and "Tennessee, zone 0" for the Day on which such Conversion Gas was taken, multiplied by such quantity of Conversion Gas, in addition to any other costs, losses, and damages attributable to such taking, in addition to any legal remedies otherwise available.

8. QUALITY

- 8.1 Specifications. The Gas received and delivered at each Point(s) of Receipt and Point(s) of Delivery shall meet the following quality specifications:
- 8.1.1 The Gas shall be commercially free from objectionable odors, dirt, dust, iron particles, gums, gum-forming constituents, gasoline, polychlorinated biphenyls, and other solid and/or liquid matter, including but not limited to water, Gas treating chemicals and well completion fluids and debris.
 - 8.1.2 The Gas shall contain a minimum of eighty-four percent (84%) by volume of methane.
 - 8.1.3 The Gas delivered hereunder shall contain not more than six (6) milligrams of hydrogen sulfide per one (1) Cubic Metre, nor more than one-hundred fifty (150) milligrams of total sulfur per one (1) Cubic Metre.
 - 8.1.4 The Gas delivered hereunder shall not contain more than two-tenths of one percent (0.20%) by volume of oxygen, shall not contain more than three percent (3%) by volume of carbon dioxide, shall not contain more than four percent (4%) by volume of nitrogen and such volume of nitrogen shall not vary by more than one and a half percent (1.5%) by volume on any given Day, and shall not contain a combined total of carbon dioxide and nitrogen components of more than four percent (4%) by volume.
 - 8.1.5 The Gas delivered hereunder shall have a Total Heating Value of not less than 37.30 MJ/m³ and not more than 43.60 MJ/m³.
 - 8.1.6 The Gas shall have a Wobbe Number of not less than 48.20 MJ/m³ nor greater than 53.20 MJ/m³, with a maximum variation per Day of five percent (5%).
 - 8.1.7 The Gas delivered hereunder shall have a hydrocarbon dew point temperature of not more than two hundred seventy-one and fifteen-tenths (271.15) Kelvin, or negative two degrees Celsius (-2° C).
 - 8.1.8 The Gas delivered hereunder shall have been dehydrated by the tendering party, by any method other than the use of a calcium chloride as desiccant, for removal of entrained water in excess of one hundred ten (110) milligrams of water vapor per one (1) Cubic Metre of Gas as determined by dew-point apparatus approved by the Bureau of Mines or such other apparatus as may be mutually agreed upon.
 - 8.1.9 The Gas shall not consist of more than eleven percent (11.0%) ethanes and heavier hydrocarbons (C₂+) by volume.

8.1.10 Shipper is responsible for any and all odorization that is or may be required by any statute, ordinance, rule or regulation, and Shipper shall construct, maintain and operate any facilities required for the performance of this obligation. Transporter shall not be obliged to odorize the Gas transported and redelivered hereunder, and Shipper's indemnity obligation in favor of Transporter as set forth in Section 18.2 includes a duty to indemnify and defend Transporter for any and all claims, losses, damages, costs and expenses (including attorneys' fees) arising out of liability predicated upon failure to odorize or inadequate odorization of any Gas transported and redelivered hereunder.

8.2 Rejection of Gas. Either Transporter or Shipper shall be entitled to reject any Gas tendered to it by the other which does not meet the minimum specifications of Section 8.1. Acceptance of such Gas does not constitute any waiver of Transporter's right to refuse to accept similarly nonconforming Gas. In the event Shipper delivers Gas containing any substance which harms or could harm Transporter's Facilities or the facilities of any upstream or downstream connecting party, Transporter shall have the right to immediately suspend taking such Gas and Shipper shall indemnify and hold Transporter harmless against any claims or causes of action brought by any person or entity which arise out of or are related to such Gas and shall reimburse Transporter for any and all damages arising therefrom.

8.3 Access to Operational Data. Transporter shall provide access to certain operational data, including gas quality and pressure, at Points of Receipt and Delivery on a not unduly discriminatory basis to any Foundation Customer or other Firm shipper. Transporter shall provide the data for informational purposes only and Transporter shall not be responsible for the accuracy of such data.

9. PRESSURE AND RECEIPT/DELIVERY RATES

9.1 Delivery Pressures. Transporter shall deliver Gas for Shipper's account at the Point(s) of Delivery specified in the Contract at such pressures as are available at the applicable Point of Delivery. In no event shall Transporter be obligated to deliver Gas at any time at a pressure in excess of the maximum allowable operating pressure for the Facilities at the applicable Point of Delivery. In addition, Transporter and Shipper may specify in the Contract a minimum or maximum delivery pressure obligation at any Point of Delivery, and Transporter shall not be obligated to reduce or increase the pressure in the Facilities at such Point of Delivery below such minimum or above such maximum delivery pressure obligation as applicable.

9.2 Receipt Pressures. Shipper shall deliver Gas or cause Gas to be delivered to Transporter for Shipper's account at the Point(s) of Receipt specified in the Contract at the pressure necessary to enter the Facilities at the applicable Point of Receipt, but not in excess of any maximum receipt pressure obligation or below

any minimum receipt pressure obligation specified in the Contract or in excess of the maximum allowable operating pressure for the Facilities at such Point of Receipt.

10. TITLE AND RISK OF LOSS

10.1 Title. Shipper warrants for itself, its successors and assigns that it will have at the time of delivery of Gas for service hereunder good right to deliver such Gas to Transporter for transportation hereunder. Shipper warrants for itself, its successors and assigns, that the Gas it delivers hereunder shall be free and clear of all liens, encumbrances, or claims on the title to the Gas, and that it will indemnify Transporter and save it harmless from all claims, suits, actions, damages, costs and expenses, including any tax associated with the receipt of a payment pursuant to this section, arising directly or indirectly from or with respect to the title to Gas tendered to Transporter hereunder.

10.2 Risk of Loss. As between Shipper and Transporter, Shipper shall be in control and possession of the Gas prior to receipt by Transporter and after delivery by Transporter to Shipper, and shall indemnify and hold Transporter harmless from any damage or injury caused thereby. Transporter shall be in control and possession of the Gas after the receipt of the same and until delivery by Transporter to Shipper, and shall indemnify and hold Shipper harmless from any damage or injury caused thereby, except for damages and injuries caused by the sole negligence of Shipper. The risk of loss for all Gas transported shall remain with Shipper, and Transporter shall not be liable to Shipper for any loss of Gas, except as may be occasioned due to the intentional or grossly negligent acts or omissions by Transporter. Any losses of Gas, unless due to the intentional or grossly negligent acts or omissions of Transporter, shall be shared proportionally by all Shippers, based on each Shipper's Gas transported in relation to the total Gas transported on the Day of the loss.

10.3 Insurance. Shipper shall be responsible for providing its own insurance coverage with respect to its Gas in the Facilities.

11. MEASUREMENT AND MEASUREMENT EQUIPMENT

11.1 Measurement Unit. The unit of measurement of Gas delivered by Transporter to Shipper shall be the Dth.

11.2 Determination of Dth Delivered. The number of Dth delivered at a Point of Delivery during any Day shall be determined as the product of (a) and (b) below, divided by 1,000:

(a) The volume of Gas delivered during such Day at such point in Mcf, determined in accordance with the procedures set forth in Section 11.3 below.

- (b) The Total Heating Value of the Gas delivered during such Day at such Point of Delivery.

The Total Heating Value shall be measured, unless otherwise agreed by the parties concerned, by methods in accordance with accepted industry practice, such as, but not limited to, recording calorimeter(s) or gas chromatograph(s) located at appropriate points. The arithmetic average of the Total Heating Value recorded each 24-hour Day or other periodic measurements within a shorter time frame as Transporter shall select shall be used for computations.

11.3 Determination of Volume Delivered. The volume of Gas delivered at any point shall be measured according to Boyle's and Charles's Law for the measurement of Gas under varying pressures with deviations therefrom as provided in paragraph (g) below, on the measurement basis hereinafter specified, and shall be determined as follows:

- (a) The unit of volume for the purpose of measurement shall be one Cubic Foot of Gas at a temperature of 60° Fahrenheit and an absolute pressure of 14.73 pounds per square inch.
- (b) The average absolute atmospheric pressure shall be assumed to be 14.4 pounds per square inch.
- (c) The static pressure of the Gas passing through the meters shall be determined by the use of electronic measurement equipment or by the use of another pressure recording device. The instantaneous static pressure measurements from the electronic measurement equipment or the arithmetic average of the temperature recorded each Day shall be used in computing Gas volumes.
- (d) The temperature of the Gas passing through the meters shall be determined by the use of electronic measurement equipment or other temperature recording device. The instantaneous temperature measurements from the electronic measurement equipment or the arithmetic average of the temperature recorded each Day shall be used in computing Gas volumes.
- (e) The specific gravity of the Gas flowing through the meters, when necessary for computing Gas volumes, shall be measured by methods Transporter deems to be in accordance with accepted industry practice, such as, but not limited to, recording gravitometer(s) or Gas chromatograph(s) located at appropriate point(s). The arithmetic average of the specific gravity recorded each Day or other periodic measurements within a shorter time frame as Transporter shall select may be applied to metering instruments to provide the volume computation.
- (f) The volume of Gas shall be determined in accordance with, but not limited to, the published recommendations of the American Gas Association and

the American National Standards Institute as Transporter deems to be in accordance with accepted industry practice.

- (g) The deviation of the Gas from Boyle's and Charles's Law shall be determined in accordance with, but not limited to, the published recommendations of the American Gas Association and the American National Standards Institute as Transporter deems to be in accordance with accepted industry practice. The amount of nitrogen and carbon dioxide contained in the Gas shall be determined at a time interval not exceeding three Months for the purpose of determining the deviation factors.

11.4 Measuring Stations.

- (a) At each Point of Receipt, Shipper shall cause the operator of the connecting facilities to install, maintain, and operate, at that party's expense, a measuring station properly equipped with measuring equipment which shall consist of the necessary metering devices, designed and installed in accordance with, but not limited to, the published recommendations of the American Gas Association and the American National Standards Institute as Transporter deems to be in accordance with accepted industry practice.
- (b) At each Point of Delivery, Transporter will install, maintain, and operate a measuring station properly equipped with measuring equipment which shall consist of the necessary metering devices, designed and installed in accordance with, but not limited to, the published recommendations of the American Gas Association and the American National Standards Institute as Transporter deems to be in accordance with accepted industry practice. Shipper shall reimburse Transporter for all expenses incurred by Transporter in connection with the design and construction of such measuring station, together with all associated piping and equipment.

11.5 Check Measuring Equipment. Shipper may install, operate and maintain, at its own expense, such check measuring equipment as it shall desire, provided that such equipment shall be so installed, maintained and operated as not to interfere with the operation of Transporter's measuring equipment at or near the Point of Delivery or other facilities or operations. Transporter shall have access to such check measuring equipment at all reasonable hours, but the operation and maintenance thereof shall be done only by Shipper.

11.6 Access to Equipment and Records. Both Shipper and Transporter shall have the right to be present at the time of any installing, reading, cleaning, changing, repairing, inspecting, testing, calibrating, or adjusting done in connection with the other's measuring equipment used in measuring deliveries hereunder. The records from such measuring equipment shall remain the property of their owner, but upon request each will submit to the other its records and charts, together with

calculations therefrom, for inspection and verification, subject to return within ten (10) calendar days after receipt thereof.

- 11.7 Test of Meters. The accuracy of all measuring equipment shall be verified by the operator at reasonable intervals, and, if requested, in the presence of representatives of either Shipper or Transporter, as applicable, but neither Shipper nor Transporter shall be required to verify the accuracy of such equipment more frequently than once in any thirty (30)-calendar day period. If either Shipper or Transporter at any time observes an error in any such measuring equipment, it will promptly notify the other party, and the parties shall then cooperate to secure a prompt verification of the accuracy of such equipment.
- 11.8 Measuring Equipment Inaccuracy and Failure. The quantity of Gas delivered hereunder during periods when the measuring equipment is out of service or registering inaccurately shall be estimated as follows:
- (a) If, upon test, any measuring equipment, the readings of which are used in the registration, integration, or computation of quantities of Gas hereunder, is found to be in error to the extent that it introduces not more than one percent (1%) measurement error in the individual measuring equipment affected, previous records of such equipment shall be considered accurate.
 - (b) If, upon test, any such above measuring equipment is found to be inaccurate to the extent that it causes the registered or computed quantities of the instrument(s) so affected to be in error by an amount exceeding one percent (1%) at a recording corresponding to the average hourly rate of flow through the instrument(s) in the period since the last preceding test, then any registrations, integration, or computed quantities of such instruments affected shall be corrected to zero error for any part of the period since the last test in which such error is known to have existed or which may be agreed upon by representatives of the parties. In case the period of such error is not known definitely or agreed upon, such correction shall be for a period of one-half of the elapsed time since the date of the last test, but not exceeding a correction period of sixteen (16) calendar days.
 - (c) If no tests have been performed to determine the degree of inaccuracy, or if the measuring equipment is out of service, the quantity of Gas shall be estimated:
 - (1) By using the registration of any existing and agreed upon check equipment considered by parties concerned to be registering accurately, or, in the absence of such facilities,

- (2) By correcting the error if the quantity or percentage of error is ascertainable by calibration, test, or mathematical calculation; or if neither of the two foregoing procedures is applicable,
- (3) By relating the quantity of deliveries to deliveries during periods under similar conditions when the measuring equipment was deemed to have been registering accurately.

11.9 Preservation of Records. Each party shall preserve for a period of at least two (2) Years all test data, charts and other similar records.

12. RATES AND CHARGES

The charges for Firm Service and Interruptible Service (including, charges for Fuel, Electric Power Costs, and any applicable adjustments to any charge), as applicable, shall be as set forth in Shipper's Contract, but in no event will such charges for transportation services provided under this SOC be more than the maximum rates or less than the minimum rates set forth in the Statement of Rates included in this SOC or as otherwise set forth in the SOC as applicable. Transporter reserves the right to discount all such listed rates below the maximum rates set forth in the Statement of Rates without undue discrimination or preference.

13. BILLINGS AND PAYMENTS

13.1 Monthly Statements. Except as otherwise provided herein, on or before the tenth (10th) calendar day of each Month, Transporter shall provide to Shipper a statement and an invoice which (a) set forth the rates for services provided by Transporter to Shipper in the preceding Month ("Billed Month"); (b) set forth the quantities and identify the Point(s) of Receipt and the Point(s) of Delivery at which Shipper delivered Gas to, or received Gas from the Facilities for the Billed Month; and (c) set forth such information as may be necessary to support and explain any adjustments made by Transporter (in accordance with Section 13.3 below) in determining the amount billed to Shipper for such Billed Month. Such invoice shall be delivered to Shipper or its agent by posting Shipper's final invoice on Transporter's LINK® System and posting a general notice of the availability of the final invoices in the Informational Postings of Transporter's Internet Web site. Transporter will provide an e-mail notification, if an e-mail address has been designated by Shipper, contemporaneously with the posting of the final invoice on Transporter's LINK® System. It is the Shipper's responsibility to update e-mail address information as necessary. Shipper may designate an agent to receive invoices and may designate such agent to receive the e-mail notifications of the availability of Shipper's final invoice on Transporter's LINK® System.

13.2 Payments. Shipper shall pay Transporter by wire transfer in immediately available funds to a depository designated by Transporter the full amount reflected on the invoice on or before twenty (20) Business Days after Transporter

rendered the invoice to Shipper. In addition to Transporter's rights under Section 5.3, if Shipper fails to pay such amounts when due, then Transporter may suspend service under a Contract(s) and interest shall accrue on all unpaid amounts from the date due until paid at a rate of interest per annum equal to the prime interest rate plus two (2) percentage points.

- 13.3 Billing Adjustments. If an error in the amount billed in any statement rendered by Transporter is discovered by either Transporter or Shipper, then Transporter shall use its good faith efforts to correct any such billing error within thirty (30) calendar days of the discovery of such error by Transporter, if Transporter discovers the error, or thirty (30) calendar days of Transporter's receipt of notification of such error from Shipper, if the error is discovered by Shipper. In the event a dispute arises as to the amount payable in any statement rendered by Transporter hereunder, Shipper shall nevertheless pay the total amount payable to Transporter under the statement rendered pending resolution of the dispute. Such payment shall not be deemed to be a waiver of the right by Shipper to recoup any overpayment, or by Transporter to recoup any underpayment, in either case with interest accruing thereon at the same rate specified in Section 13.2 above, except that with respect to overpayments, interest shall accrue from the time of overpayment only if the overpayment amount has not been refunded by Transporter within thirty (30) calendar days of such overpayment. All statements shall be considered final, and any and all objections thereto shall be deemed waived, unless made in writing within six (6) Months of Shipper's receipt thereof.
- 13.4 Right to Audit. Both Transporter and Shipper shall have the right, at any reasonable time and at their own expense, to examine and audit the books, records (including measurement, billing and payment) and charts of the other to the extent necessary to verify the accuracy of any statements or charges made under or pursuant to any of the provisions of Shipper's Contract. Upon request, Shipper shall also make available to Transporter for audit purposes any relevant records of the connecting parties to which Shipper has access. A formal audit of accounts shall not be made more often than once each Year. Any inaccuracy will be promptly corrected when discovered; provided, however, that neither Transporter nor Shipper shall be required to maintain books, records or charts for a period of more than two (2) Years following the end of the Year to which they are applicable. Neither Transporter nor Shipper shall have any right to question or contest any charge or credit if the matter is not called to the attention of the other in writing within two (2) Years after the end of the Year in question.

14. NOTICES

Any notice, request, demand, or statement, provided for in Shipper's Contract, except as otherwise herein provided, shall be given in writing, delivered in person, by United States Mail, or via e-mail or the LINK® System, to the parties hereto at the addresses shown in the executed Contract or at such other addresses as may hereafter be furnished to the other party in writing.

15. REIMBURSEMENT AND TAXES

Transporter may require in its Contract that the Shipper reimburse Transporter for the following to the extent that such is not prohibited by any applicable statute, regulation, or order by a federal or state Governmental Authority having jurisdiction: (1) for the costs of any facilities installed by Transporter to receive or deliver Gas for the account of Shipper; (2) for any and all fees required in connection with Shipper's Contract that Transporter is obligated to pay to the RRC or any other Governmental Authority having jurisdiction; (3) for any natural gas gathering, occupation, production, severance or sales tax, first use tax, gross income tax, or taxes similar in nature or equivalent in effect that are now or hereafter imposed or assessed against Transporter by any lawful authority as a result of the transportation of natural gas pursuant to any applicable Contract or the production or gathering of such natural gas; (4) for any Electric Power Costs as set forth in Shipper's Contract; and (5) for any charges that Transporter incurs from other parties in rendering service for Shipper, including but not limited to penalties of any kind, imbalance cash outs, whether imposed pursuant to a transportation service agreement, operational balancing agreement or otherwise, which charges are related to the transportation service rendered to Shipper pursuant to any applicable Contract. Unless otherwise agreed to in a Contract, Shipper agrees to reimburse Transporter for costs associated with items (1)-(5) above, including any penalties and interest, within twenty (20) Business Days of the date of invoice from Transporter. Shipper shall furnish Transporter information, satisfactory to Transporter, to enable Transporter to comply with any reports required by state or federal government and agencies related to items (1)-(5) above. Shipper recognizes that Transporter may be required to file federal and state tax returns, and agrees to furnish Transporter with adequate information pertaining to the taxation on the Gas. Shipper shall coordinate such filings with Transporter.

Shipper shall make reasonable efforts to eliminate or minimize any withholding tax Shipper believes is applicable to the payments paid to Transporter, and such reasonable effort shall include, but not be limited to, requesting from Transporter prior to withholding any such tax from the payments owed to Transporter the relevant documentation necessary (for example, Form W-9) to determine the appropriate withholding, if any, for tax purposes. In the event that Shipper withholds taxes from the payments paid to Transporter, the Shipper shall timely remit such withheld taxes to the applicable taxing authority, and the Shipper will provide Transporter, after the calendar year end, Federal Form 1099 as applicable to Transporter and a comparable state form, if applicable, within the required time frame. To the extent deemed necessary by Transporter and Shipper, the parties may enter into a tax characterization agreement.

16. FORCE MAJEURE

16.1 Notification. In the event Transporter or Shipper is rendered unable, in whole or in part, by force majeure, to carry out its respective obligations, other than to make payments due for services rendered hereunder, it is agreed that upon such party giving notice and reasonably full particulars of such force majeure event relied on, then the obligations of the party giving such notice, so far as such obligations are affected by such force majeure, shall be suspended during the

continuance of any inability so caused, but for no longer period, provided that such cause shall as far as is reasonably practicable be remedied with all reasonable dispatch by the party claiming force majeure.

16.2 Force Majeure. The term “force majeure” as employed herein shall mean acts of God, governmental action, strikes, lockouts or other industrial disturbances, acts of the public enemy, acts of terror, wars, blockades, insurrections, riots, epidemics, landslides, lighting, earthquakes, fires, hurricanes, tornadoes, storms, storm warnings, floods, washouts, freezes, arrests and restraints of governments and people, civil disturbances, explosions, breakage of, accidents to, or mechanical failure of machinery, equipment, or lines of pipe regardless of how caused, failure of any upstream or downstream connected parties to receive or take any quantity of Gas tendered for receipt or delivery at the Point(s) of Receipt or Delivery hereunder, and any other causes, whether of the kind herein enumerated or otherwise, not within the control of the party claiming suspension (including, but not limited to, acts of negligence or willful misconduct of third parties, whether or not under the control employ or supervision of the party claiming suspension) and which by the exercise of due diligence such party is unable to prevent or overcome. Such term shall likewise include: (a) in those instances where either Transporter or Shipper is required to obtain servitudes, rights-of-way grants, permits or licenses to enable such party to fulfill its obligations hereunder, the inability of such party to acquire, or the delays on the part of such party in acquiring, at reasonable cost and after the exercise of reasonable diligence, such servitudes, rights-of-way grants, permits or licenses; and (b) in those instances where either party is required to furnish materials and supplies for the purpose of constructing or maintaining facilities or is required to secure permits or permissions from any Governmental Authority to enable such party to fulfill its obligations hereunder, the inability of such party, at reasonable cost and after the exercise of reasonable diligence, to furnish such materials and supplies or to secure such permits and permissions. During the pendency of an event of force majeure, Shipper shall not, unless otherwise agreed, be relieved of any reservation charge or demand charge payment obligations in respect of any service reductions attributable to the force majeure.

16.3 Settlement of Strikes. The settlement of strikes or lockouts shall be entirely within the discretion of the party having the difficulty, and the requirement in Section 16.1 above that any force majeure event shall be remedied with all reasonable dispatch shall not require the settlement of strikes or lockouts by acceding to the demands of any opposing party when such course is inadvisable in the discretion of the party having the difficulty.

17. LAWS AND REGULATION

17.1 Regulatory Authorities. Transporter’s operations are subject to all present and future valid laws and lawful orders of all regulatory authorities now or hereafter having jurisdiction over Transporter’s Facilities or the services provided by Transporter, including, without limitation, the applicable provisions of Part 284 of

Title 18 of the Code of Federal Regulations (“Part 284 Regulations”). Transporter shall operate the Facilities in accordance with Applicable Law, prudent industry practices, the terms of this SOC, and in accordance with specific terms of Contracts. Transporter shall obtain and maintain all required permits and approvals required to provide interstate natural gas transportation service pursuant to Section 311 of the NGPA and to operate the Facilities under Applicable Law. Should Shipper or Transporter by force of any such law, regulation, or order imposed at any time during the term of Shipper’s Contract be rendered unable, wholly or in part, to carry out its obligations under the Contract, other than to make payments due hereunder, the Contract nevertheless shall continue and shall be deemed modified to conform to the requirements of such law or regulation, except as hereinafter provided. The Contract shall be modified to the least extent necessary to conform to such requirements, the primary intent of any such modification being to retain, to the greatest extent possible, the bargain of the Shipper’s Contract. The Contract is expressly made subject to any and all tariff and other rate filings made by Transporter and approved by any federal or state regulatory body as such may be amended from time to time, including discontinuance of all interstate transportation services. Transporter will have the right to propose to the FERC or other governing regulatory body, to the extent necessary, such changes in its rates and terms of service at any time as it deems necessary, and Shipper’s Contract will be deemed to include any changes that are made effective pursuant to order or regulation or provisions of law, without prejudice to Shipper’s right to protest the same. In the event of a conflict between (a) the applicable Part 284 Regulations, (b) the SOC, and (c) a Contract, the terms of the documents shall govern in the priority listed in this sentence. If any regulatory body having jurisdiction over the Contract subjects Transporter to any greater or different regulation or jurisdiction, by order or otherwise, than that existing on the effective date of the Contract, then Transporter shall have the right to terminate the Contract, anything herein to the contrary notwithstanding, and Transporter will have no further liability to Shipper or any other entity in connection with such termination. In the event that any regulatory body having jurisdiction over the Contract prohibits Transporter from collecting specific rates for the services provided under the Contract, then Transporter shall have the right to terminate the Contract, anything herein to the contrary notwithstanding, and Transporter will have no further liability to Shipper or any other entity in connection with such termination.

- 17.2 During the Term of a Contract, Shipper represents and warrants that (i) it has all lawful rights to deliver all Gas hereunder for its account and that such Gas is free from liens and adverse claims of every kind; (ii) all Gas tendered to Transporter for Shippers’ account shall conform to the quality specifications set forth in Section 8 of the SOC; and (iii) at all times during the term of its Contract, Shipper will commit no action or omission that will cause the transportation service provided to Shipper to fail to comply with all applicable rules and regulations of the applicable regulatory agencies, including, without limitation, the “on behalf of” provisions of the Part 284 Regulations.

18. MISCELLANEOUS

18.1 Assignment. The terms and provisions of the Contract shall be binding upon and inure to the benefit of the successors, assigns, personal representatives and heirs of the respective Shipper and Transporter. In addition to any other terms of assignment as set forth in this SOC or the Contract, no assignment shall be made by either party without prior written consent of the other party, which consent shall not be unreasonably withheld, conditioned, or delayed. Contracts for Interruptible Service are not assignable.

In addition and notwithstanding the foregoing, Transporter will allow, on a not unduly discriminatory basis, temporary assignments on a monthly basis of all or a portion of capacity (by percentage) subscribed under a Contract for Firm Service for less than the remaining Contract term under a Contract for Firm Service, subject to (i) the assigning Shipper remaining responsible for the assignee's payment obligations for the assigned capacity and the full demand charge included in the Contract before assignment; (ii) the assignee executing a Contract for Firm Service acceptable to Transporter; (iii) the assignee providing credit support reasonably acceptable to Transporter for assignee's payment obligations under the Contract for Firm Service; (iv) other reasonable terms and conditions required by Transporter related to such temporary assignment; and (v) Shipper providing notice to Transporter no less than fifteen (15) Business Days before the effective date of such assignment. No temporary assignee of a Contract or capacity under a Contract for one year or less shall be permitted to reassign the Contract or Contract capacity to a subsequent assignee. The Contract for a temporary assignee of a Contract or capacity under a Contract shall have the same commodity charge, rate for Fuel, and pressure limitations as set forth in the assignor's original Contract. During the term of a temporary assignment, the assignor's original Contract shall not be amended in any manner.

In addition and notwithstanding the foregoing, Transporter will allow, on a not unduly discriminatory basis, permanent assignments of all or a portion of capacity (by percentage) subscribed under a Contract for Firm Service, subject to (i) unless otherwise mutually agreed, the assigning Shipper remaining responsible for the assignee's payment obligations for the assigned capacity and the full demand charge included in the Contract before assignment; (ii) the assignee executing a Contract for Firm Service acceptable to Transporter; (iii) the assignee providing credit support reasonably acceptable to Transporter for assignee's payment obligations under the Contract for Firm Service; (iv) other reasonable terms and conditions required by Transporter related to such assignment; and (v) Shipper providing notice to Transporter no less than fifteen (15) Business Days before the effective date of such assignment. The Contract for a permanent assignee of a Contract or capacity under a Contract shall have the same demand charge, commodity charge, rate for Fuel, and pressure limitations as set forth in the assignor's original Contract.

- 18.2 Breach of Regulatory Warranty. Transporter shall have no obligation under this Contract if Transporter determines at any time that Shipper has breached any applicable representation or warranty referenced above or that the service to be provided hereunder does not so qualify. Shipper agrees to indemnify and hold Transporter harmless from and against and shall compensate Transporter for any and all actions, damages, costs, losses and expenses sustained by Transporter for any and all actions, damages, costs, losses and expenses sustained by Transporter relative to any breach by Shipper of any representation or warranty herein expressed.
- 18.3 Limitation of Liability. THE PARTIES AGREE THAT LIABILITY FOR ANY DAMAGES OR LOSS INCURRED BY A PARTY RESULTING FROM A PARTY'S PERFORMANCE OF, OR FAILURE TO PERFORM, THE OBLIGATIONS HEREUNDER SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY, AND THAT SUCH DIRECT ACTUAL DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. UNLESS EXPRESSLY HEREIN PROVIDED, NEITHER PARTY SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY, OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION OR OTHERWISE. IT IS THE INTENT OF THE PARTIES THAT THE LIMITATIONS HEREIN IMPOSED ON REMEDIES AND THE MEASURE OF DAMAGES BE WITHOUT REGARD TO THE CAUSE OR CAUSES RELATED THERETO, INCLUDING THE NEGLIGENCE OF ANY PARTY, WHETHER SUCH NEGLIGENCE BE SOLE, JOINT OR CONCURRENT, OR ACTIVE OR PASSIVE.
- 18.4 Choice of Law. THE CONTRACT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS, EXCLUDING ANY CONFLICTS-OF-LAW RULE OR PRINCIPLE WHICH MIGHT REFER SUCH CONSTRUCTION TO THE LAWS OF ANOTHER STATE. Each of the parties to the Contract, unless otherwise agreed in the Contract (including an agreement to submit to arbitration), (a) irrevocably submits to the exclusive jurisdiction of any court having jurisdiction sitting in Harris County, Texas, for the purposes of any suit, action or proceeding arising out of or relating to this Contract, and (b) waives, and agrees not to assert any such suit, action or proceeding, any claim that (i) it is not personally subject to the jurisdiction of such court or of any court to which proceedings in such court may be appealed; (ii) such suit, action or proceeding is brought in an inconvenient forum; or, (iii) the venue of such suit, action or proceeding is improper.
- 18.5 Waiver. Subject to any applicable state or federal regulations, Transporter reserves the right to waive any provision included in this Statement of Operating Conditions at any time and for any reason in its discretion, provided such waivers are not invoked in a manner as to create undue discrimination or preference. No

waiver by Transporter of any default of Shipper under a Contract shall operate as a waiver of any future default, whether of a like or different character.

- 18.6 Modification. A Contract may not be modified or amended except by the written agreement of the parties to the Contract.
- 18.7 Entirety. This Statement of Operating Conditions and each Contract (including all exhibits) constitute the entire agreement by and between the parties with respect to the subject matter hereof and thereof, and supersedes all prior contracts or agreements (whether written or oral) with respect to the subject matter hereof and thereof, including without limitation, any and all rights and/or obligations of the parties under or otherwise arising in connection with a request for proposal and/or other proposal for service.
- 18.8 Headings. The captions or headings preceding the various parts of this Statement of Operating Conditions are inserted and included solely for convenience and will never be considered or given any effect in construing this Statement of Operating Conditions, or in connection with the intent, duties, obligations, or liabilities of Transporter and Shipper.
- 18.9 Third Parties & Confidentiality. Nothing contained in this Statement of Operating Conditions or the Contract, either express or implied, confers any rights, remedies, or claims upon any person or entity not a party to the Contract, other than the successors or permitted assigns of the parties unless otherwise specified in the Contract. Subject to Applicable Law and the FERC's on-going jurisdiction over the Contract, Transporter and Shipper may agree to treat certain information exchanged for the purpose of evaluating and providing service on the Facilities (including the terms of a Contract) as confidential.
- 18.10 No Presumption. Each and every provision of a Contract shall be considered as prepared through the joint efforts of the parties thereto and shall not be construed against either party as a result of the preparation or drafting thereof. It is expressly agreed that no consideration shall be given or presumption made on the basis of who drafted the Contract or any specific provision thereof.
- 18.11 Survival. Provisions of a Contract will survive the end of the Term or the expiration of a Contract to the extent necessary to preserve and effectuate the rights of the parties.

19. ACTION ALERTS AND OPERATIONAL FLOW ORDERS

- 19.1 Circumstances Warranting Issuance. As specified in this Section 19, Transporter shall have the right to issue "Action Alerts" or Operational Flow Orders ("OFO") that require actions by Shippers and/or Shipper's upstream or downstream connecting parties, as applicable, in order to (i) alleviate conditions that threaten to impair reliable service, (ii) maintain operations at the pressures required to provide efficient and reliable services, (iii) maintain services pursuant to Contracts for Firm Service, and (iv) maintain the system in balance for the

foregoing purposes. Transporter shall lift any effective Action Alert or OFO promptly upon the cessation of operating conditions that caused the relevant system problem.

- 19.2 Actions to be Taken to Avoid Issuance. Transporter shall, to the extent reasonably practicable, take all reasonable actions necessary to avoid issuing an Action Alert or OFO. Such actions shall include, in order of priority (i) working with Shipper's upstream and downstream connecting parties to temporarily adjust receipts and/or deliveries at relevant Point(s) of Receipt or Point(s) of Delivery, (ii) working with Shippers and/or Shipper's upstream and downstream connecting parties, as applicable, to adjust scheduled flows on the system, or (iii) taking any other reasonable action designed to mitigate the system problem. After taking all such reasonable actions to avoid issuing an Action Alert or OFO, Transporter will have the right to issue Action Alerts or OFOs, if necessary, in the circumstances described in Section 19.1.
- 19.3 Preliminary Notifications/Follow-up Reports. Transporter shall provide, via posting on the Internet Web site, prior notice to all Shippers and Shipper's upstream and downstream connecting parties of upcoming system events such as anticipated weather patterns and operational problems that may necessitate the issuance of an Action Alert or OFO.
- 19.4 Applicability of Action Alert or OFO. Transporter shall make an Action Alert or OFO as localized as is reasonably practicable based on Transporter's good faith and reasonable judgment concerning the situations requiring remediation such that an Action Alert or OFO will be directed first to Shippers and/or Shipper's upstream and downstream connecting parties, as applicable, causing the problem necessitating the Action Alert or OFO and second, if necessary, to all Shippers and/or Shipper's upstream and downstream connecting parties, as applicable. Transporter will tailor the Action Alert or OFO to match the severity of the known or anticipated operational problem requiring remediation as more fully set forth in Sections 19.6 and 19.7. The declaration to the affected parties of Action Alerts and OFOs shall describe the conditions and the specific responses required from the affected parties.
- 19.5 Notice. All Action Alerts and OFOs will be issued via posting on the Internet Web site. Transporter shall also provide such notification via e-mail communication to those Shippers and Shipper's upstream and downstream connecting parties that have provided e-mail address information for at least one contact person, and have requested via Transporter's Internet Web site, e-mail notification of critical notices issued by Transporter. The Action Alert or OFO will set forth (i) the date and time of issuance, (ii) the actions Shippers and/or Shipper's upstream and downstream connecting parties, as applicable, are required to take, (iii) the time by which Shippers and/or Shipper's upstream and downstream connecting parties, as applicable, must be in compliance with the Action Alert or OFO, (iv) the anticipated duration of the Action Alert or OFO, and (v) any other terms that Transporter may reasonably require to ensure the

effectiveness of the Action Alert or OFO. In addition to the other information contemplated by this Section 19.5, such notice shall also include information about the status of operational variables that determine when an Action Alert or OFO will begin and end, and Transporter shall post periodic updates of such information, promptly upon occurrence of any material change in the information. Transporter will post a notice on the Internet Web site informing Shippers and Shipper's upstream or downstream connecting parties when any Action Alert or OFO in effect will be lifted and specifying the factors that caused the Action Alert or OFO to be issued and then lifted, to the extent such factors are known.

19.6 Action Alerts. In the event that Transporter determines that due to (i) an ongoing or anticipated weather event, (ii) a known equipment problem, or (iii) the anticipated continuation of a current system operational problem, action is necessary to avoid a situation in which the system integrity is jeopardized or Transporter's ability to render Firm Service is threatened, Transporter may issue an Action Alert as set out herein to forestall the development of the situation.

19.6.1 Issuance of Alerts. Action Alerts will be noticed in accordance with the procedures set forth in Section 19.5, and Transporter will endeavor to provide a minimum of four hours' notice.

19.6.2 Action Alerts can be issued to affect any of the following:

19.6.2.1 restriction of Interruptible Service;

19.6.2.2 restrictions of deliveries to specific Point(s) of Receipt or Point(s) of Delivery covered by an operational balancing agreement with an interconnecting party to the aggregate MDRO or MDDO under the Firm Contracts whose Primary Point(s) of Receipt or Delivery are at the affected locations; and/or

19.6.2.3 forced balancing such that point operators will be required to assure that nominations equal flows or that receipts and deliveries fall within the tolerance level designated in the Action Alert.

19.7 OFOs. In the event that, in Transporter's judgment, immediate action is required to alleviate conditions which threaten to impair reliable Firm Service, to maintain operations at the pressures required to provide efficient and reliable service, to maintain services pursuant to Contracts for Firm Service, or to maintain the system in balance for the foregoing purposes, Transporter may forego the action described in Section 19.6 and immediately issue an OFO. In the event that (i) Shippers and/or Shipper's upstream and downstream connecting parties, as applicable, do not respond to an Action Alert, (ii) the actions taken thereunder are insufficient to correct the system problem for which the Action Alert was issued, or (iii) there is insufficient time to carry out the procedures with respect to Action

Alerts, Transporter may issue an OFO pursuant to this Section 19.7 or take unilateral action pursuant to Section 19.11 below, including the curtailment of Firm Service, to maintain the operational integrity of Transporter's Facilities. For purposes of this Section 19.7, the operational integrity of Transporter's Facilities shall encompass the integrity of the physical system and the preservation of physical assets and their performance, the overall operating performance of the entire physical system as an entity, and the maintenance (on a reliable and operationally sound basis) of total system deliverability and the quality of Gas delivered.

19.8 Termination of an Action Alert or OFO. Transporter shall lift any effective Action Alert or OFO promptly upon the cessation of operating conditions that caused the relevant system problem. After Transporter has lifted the Action Alert or the OFO, Transporter shall post a notice on its Internet Web site specifying the factors that caused the Action Alert or OFO to be issued and then lifted, to the extent such factors are known. Transporter shall also provide such notification via e-mail communication to those Shippers and Shipper's upstream and downstream connecting parties who have submitted a request, and provided e-mail address information for at least one contact person, via Transporter's Internet Web site to receive e-mail notification of critical notices issued by Transporter.

19.9 Penalties. All quantities tendered to Transporter and/or taken by Shippers and/or Shipper's upstream and downstream connecting parties, as applicable, on a daily basis in violation of an Action Alert or OFO shall constitute unauthorized receipts or deliveries for which the applicable Action Alert or OFO penalty charge stated below shall be assessed.

19.9.1 Action Alert penalty charge for each Dekatherm of Gas by which Shipper and/or Shipper's upstream and downstream connecting parties, as applicable, deviated from the requirements of the Action Alert equal to an Action Alert Index Price calculated as 110% of the arithmetic average of *Platts Gas Daily* daily price survey Midpoint prices for "Tx. Eastern, STX," "NGPL, STX," and "Tennessee, zone 0" for the Day on which the deviation occurred, multiplied by the quantity by which Shipper and/or Shipper's upstream or downstream connecting parties, as applicable, deviated from the requirements of the Action Alert.

19.9.2 OFO penalty charge for each Dekatherm of Gas by which Shipper and/or Shipper's upstream or downstream connecting parties, as applicable, deviated from the requirements of the OFO equal to an OFO Index Price calculated as three (3) times the arithmetic average of *Platts Gas Daily* daily price survey Midpoint prices for "Tx. Eastern, STX," "NGPL, STX," and "Tennessee, zone 0" for the Day on which the deviation occurred, multiplied by the quantity by which Shipper and/or Shipper's upstream or downstream connecting party, as applicable, deviated from the requirements of the OFO.

19.10 Liability of Transporter. Transporter shall not be liable for any costs incurred by any Shipper and/or Shipper's upstream or downstream connecting party, as applicable, in complying with an Action Alert or OFO. Transporter shall not be responsible for any damages that result from any interruption in service that is a result of Shipper's and/or Shipper's upstream or downstream connecting parties, as applicable, failure to comply promptly and fully with an Action Alert or OFO, and the non-complying Shipper and/or Shipper's upstream or downstream connecting party, as applicable, shall indemnify Transporter against any claims of responsibility. However, Transporter shall use reasonable efforts to minimize any such costs or damages.

19.11 Unilateral Action. In the event that (1) Shippers and/or Shipper's upstream or downstream connecting parties, as applicable, do not respond to an OFO, or (2) the actions taken thereunder are insufficient to correct the system problem for which the OFO was issued, or (3) there is insufficient time to carry out the procedures with respect to OFOs, Transporter may take unilateral action, including the curtailment of Firm Service, to maintain the operational integrity of Transporter's Facilities. For purposes of this Section 19.11, the operational integrity of Transporter's Facilities shall encompass the integrity of the physical system and the preservation of physical assets and their performance, the overall operating performance of the entire physical system as an entity, and the maintenance (on a reliable and operationally sound basis) of total system deliverability and the quality of Gas delivered.

20. PERIODIC ADJUSTMENTS

Transporter and Shipper recognize that Transporter will from time to time experience changes in costs related to providing service on the Facilities, including, but not limited to, changes in the cost of labor, benefits, materials and supplies, taxes, required rate of return, costs associated with the resolution of past disputes or outstanding uncertainties concerning amounts owed by Transporter or Shipper or attributable to Transporter or Shipper, and costs generated by decisions of the RRC, the courts or by an arbitration panel or other body having jurisdiction over Transporter. Transporter and Shipper further recognize that it may be appropriate, equitable and consistent with cost responsibility to allocate such costs among Shippers based on or taking into account past period factors, such as contract demand levels, throughput or other factors related to a prior period of time. Shipper agrees that Transporter shall have the right from time to time to make rate change filings which may include such costs and utilize an allocation methodology based in whole or in part on factors related to past periods and that, unless otherwise provided for in Shipper's Contract, such rate change filings shall apply to service under Shipper's Contract.

21. STATEMENT OF RATES

	<u>Minimum (\$/Dth)</u>	<u>Maximum (\$/Dth)</u>
Firm Service		
(Nueces Header)		
Demand Charge (Monthly)	\$0.0000	\$0.4349
Demand Charge (Daily)	\$0.0000	\$0.0143
Commodity Charge	\$0.0000	\$0.0002
Interruptible Service		
(Nueces Header)		
Commodity Charge	\$0.0000	\$0.0145
Firm Service		
(Brownsville Pipeline)		
Demand Charge (Monthly)	\$0.0000	\$7.3096
Demand Charge (Daily)	\$0.0000	\$0.2403
Commodity Charge	\$0.0052	\$0.0052
Interruptible Service		
(Brownsville Pipeline)		
Commodity Charge	\$0.0052	\$0.2455
Fuel Gas Percentage*	0.0%	3.0%

Charges for transportation service across the Nueces Header and the Brownsville Pipeline are additive. For example, If Transporter transports gas for Shipper at maximum rates across both the Nueces Header and the Brownsville Pipeline, Shipper would incur maximum charges for both zones.

* Fuel Gas charge will be dependent on transportation path and system operations and will be no higher than the maximum and no lower than the minimum percentages stated in this Statement of Rates.