



**RETAILER TERMS AND CONDITIONS
FOR
GAS DISTRIBUTION SERVICE**

AUC Decisions: 26283-D01-2021 & 26013-D01-2021

Effective: April 1, 2021



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ARTICLE 1 – PREAMBLE

In accordance with the provisions of the Gas Utilities Act ("GUA") and the Regulations made thereunder ("Regulations"), ATCO Gas an operating division of ATCO Gas and Pipelines Ltd. ("ATCO Gas") will, for certain Customers, act solely as a Gas Distribution Service provider and will not be responsible for providing Gas directly to Customers or for billing delivery charges to Customers. In its role as a Gas Distribution Service provider, ATCO Gas will enable Retailers and the Default Supply Provider ("DSP") to acquire access to its Gas Pipeline System for the purposes of allowing them to sell Gas directly to Customers. A Customer may also act as a Self-Retailer by carrying out retailer functions to obtain Gas Services solely for its own use.

These Terms and Conditions are intended to apply to the relationship between ATCO Gas, as a Gas Distribution Service provider and all Retailers, the DSP, or any party who will be acting as an Agent on behalf of the Retailer/DSP for transactions governed by these Terms and Conditions. These Terms and Conditions will also govern the relationship between ATCO Gas and Customer(s) for whom the Retailer/DSP or any other party is acting as an Agent in its dealings with ATCO Gas. These Terms and Conditions serve as a companion to the Customer Terms and Conditions for Gas Distribution Service which are intended to govern the relationship between ATCO Gas and Customer(s), or any other person whom the Customer has assigned to act on its behalf in its dealings with ATCO Gas, regarding the provision of Gas Distribution Service on its Gas Pipeline System.

These Terms and Conditions outline the rules that Retailers, the DSP, and Agents must follow to engage in Retailer transactions with the Company.

The service provided by ATCO Gas hereunder is regulated by the Alberta Utilities Commission ("AUC"), and parties having any inquiries or complaints regarding these Terms and Conditions may direct such inquiries or complaints directly to ATCO Gas or to the AUC. These Terms and Conditions have been approved by the AUC.



ARTICLE 2 – DEFINITIONS AND INTERPRETATION

2.1 Definitions

The following words and phrases, whenever used in these Terms and Conditions, the Company's Natural Gas Rate Schedules, Company's Retailer Guide or a Distribution Access Service Agreement, shall have the meanings set forth below:

"*Account*" means a record maintained by ATCO Gas which contains receipts, deliveries, Rider D, Imbalance Purchase and Imbalance Sale, and adjustments applicable to each Retailer/DSP providing Gas Services to Customers on the Gas Pipeline System;

"*Account Balancing*" means the process of managing Gas receipts and/or deliveries in an Account in order to keep the difference, net of adjustments, within the tolerance specified by the Imbalance Window;

"*Account on the Transmission System*" means the account held by the Company on NOVA Gas Transmission Ltd.;

"*Act*" means the *Gas Utilities Act, R.S.A. 2000, c.G-5*, as amended from time to time;

"*Agency Appointment Agreement*" means an agreement between a Retailer/Self-Retailer or DSP and another party wherein the other party is appointed as Agent for that Retailer/Self-Retailer, or DSP;

"*Agent*" means a person who performs functions on behalf of a Self-Retailer, Retailer, or DSP including, but not limited to, retailer transactions with the Company;

"*AUC*" means the Alberta Utilities Commission established under the *Alberta Utilities Commission Act, S.A. 2007, c.A-37.2*, as amended from time to time;

"*AUC Rule 028*" means AUC Rule 028 - Natural Gas Settlement System Code that governs the standards for determining and communicating retail natural gas consumption for the purpose of load settlement;



"*Backcast*" means an estimate of Customer Load prepared for the current Gas Day as described in the Retailer Guide;

"*Business Day*" is any day other than Saturday, Sunday or a holiday as defined in the *Interpretation Act, R.S.A. 2000, c.1-8*, as amended from time to time;

"*Company*" means ATCO Gas, an operating division of ATCO Gas and Pipelines Ltd. or its successor;

"*Consumer Protection Act*" means the *Consumer Protection Act, R.S.A. 2000, c.C-26.3*, as amended from time to time;

"*Credit Rating*" shall mean, with respect to a Retailer on any date of determination, (1) the respective rating then assigned to its issuer rating or unsecured and senior, long-term indebtedness (not supported by third party credit enhancement) by S&P, DBRS or Moody's or (2) the issuer rating by S&P, DBRS or Moody's. In the event of a split rating the lower shall prevail;

"*Customer*" means a person, firm, partnership, corporation, organization or association (including without limitation, individual members of any unincorporated entity) who consumes Gas in end-use at its location and is connected to the Company Gas Pipeline System;

"*Customer Billing Information*" means the information required to be included on the Customer's bill issued by the Retailer/DSP as required by the Natural Gas Billing Regulation, A.R. 185/2003, or Default Gas Supply Regulation, A.R. 184/2003 respectively, as amended from time to time, and provided by the Company;

"*Customer Information*" includes the data specified in the AUC Rule 028 and other information, including safety related information, required to provide safe Gas Distribution Service to Customers;



"Customer Usage Information" means information regarding the historical Gas consumption as specified in AUC Rule 010;

"Day" means a period of twenty-four (24) consecutive hours;

"DBRS" Dominion Bond Rating Service, or its successor;

"Default Supply Provider" or *"DSP"* means a Gas Distributor or a person authorized by a Gas Distributor, who provides Gas Services to Customers under rates, tolls or charges fixed by the AUC and terms or conditions fixed by the AUC;

"Distribution Access Service" means the service required to transport Gas to Customer(s) by means of a Gas distribution system. This service enables a Customer to obtain Gas supply service through Self-Retailing, from a Retailer or the DSP and is governed by these Terms and Conditions;

"Distribution Access Service Agreement" means an agreement for the provision of Distribution Access Service pursuant to these Terms and Conditions between the Company and a Retailer/DSP, in the form attached as Schedule A hereto;

"Final Monthly Settlement" means the last Gas Settlement performed for a Retailer/DSP's Sites(s) for a Month, as described in AUC Rule 028;

"Forecast" means an estimate of Customer Load prepared for the current or next Gas Day and includes forecast F1, F2, and F3 as described in the Retailer Guide;

"Force Majeure" means circumstances not reasonably within the control of the Company, including acts of God, strikes, lockouts or other industrial disturbances, acts of the public enemy, wars, blockades, insurrections, riots, pandemics, epidemics, landslides, lightning, earthquakes, fires, storms, floods, high water, washouts, inclement weather, orders or acts of civil or military authorities, civil disturbances, explosions, breakdown or accident to equipment, mechanical breakdowns, temporary failures of gas supply, the intervention of federal, provincial, state or local government or from any of their agencies or boards excluding decisions and/or orders made by the AUC in the normal course of it exercising

its authority to establish the revenue requirement of the parties to this agreement, the order or direction of any court, and any other cause, whether of the kind herein enumerated or otherwise;

"Gas" means all natural gas both before and after it has been subjected to any treatment or process by absorption, purification, scrubbing or otherwise, and includes all fluid hydrocarbons;

"Gas Day" means a Day beginning at eight hours (08:00), Mountain Standard Time;

"Gas Distribution Service" means the service required to transport Gas to Customers by means of a Gas Pipeline System, and includes any services the Gas Distributor is required to provide by the AUC or is required to provide under the *Act* or Regulations made thereunder;

"Gas Distributor" means the owner, operator, manager or lessee of a gas distribution system as defined in the *Act*;

"Gas Distribution Tariff" means the rates, tolls or charges fixed by the AUC and the terms and conditions fixed by the AUC, for Gas Distribution Service;

"Gas Pipeline System" means all those facilities owned or used by the Company in the receipt, delivery, transportation, measurement and testing of Gas, (including, without limitation, transmission and distribution lines, regulators, meters, equipment and machinery);

"Gas Services" as defined in the *Act* means:

- (i) the Gas that is provided and delivered, and
- (ii) the services associated with the provision and delivery of the Gas, including:
 - (A) arranging for the exchange or purchase of the Gas,
 - (B) making financial arrangements to manage the financial risk associated with the price of Gas,
 - (C) arranging for Gas Distribution Service,

- (D) arranging for delivery of Gas to the gas distributor's specified Point(s) of Receipt,
- (E) storage,
- (F) billing, collection and responding to customer billing inquiries,
- (G) maintaining information systems, and
- (H) any other services specified by the Minister by order as Gas Services;

"*Gas Settlement*" means any or all of Initial Monthly Settlement, Interim Monthly Settlement and/or Final Monthly Settlement as defined in the AUC Rule 028;

"*GJ*" means gigajoules or one billion (1 000 000 000) joules;

"*Gross Heating Value*" means the number of megajoules obtained from the combustion of a cubic metre of gas at a temperature of fifteen degrees Celsius (15°C), with the gas free of water vapor, and at a pressure of 101.325 kPa absolute and with the products of combustion cooled to the initial temperature of the gas and the water formed by the combustion condensed to the liquid state;

"*Imbalance*" means the difference between energy quantities of Gas received and Gas delivered, net of adjustments, in an Account each Gas Day;

"*Imbalance Window*" means a range of Imbalances within which an Account is considered to be in balance without action being taken to adjust receipts into or deliveries from that Account;

"*Imbalance Purchase/Sale*" means the removal from, by Imbalance Purchase, or addition to, by Imbalance Sale the daily Account Imbalance energy quantity outside the nearest Account daily Imbalance Window boundary, as the case may be, in a Retailer/DSP Account by ATCO Gas which will be settled financially;

"*Intercontinental Exchange*" means Intercontinental Exchange, Inc., an electronic trading platform that may be used by market participants for transactions related to, among others, natural gas energy purchase or sale;



"*Load*" means the amount of natural Gas delivered or required to be delivered at any specific point or points in the Gas Pipeline System;

"*LBDA*" means the Company's load balancing deferral account that is used to record certain revenues and expenses associated with load balancing the Gas Pipeline System, including without limitation balancing purchase/sales and Imbalance Purchase/Sales;

"*Moody's*" shall mean Moody's Investor Services, Inc., or its successor;

"*Month*" means a period beginning at eight hours (08:00), Mountain Standard Time, on the first day of a calendar month and ending at eight hours (08:00), Mountain Standard Time, on the first day of the next succeeding calendar month;

"*NGX*" means Natural Gas Exchange Inc., an exchange for the trading and clearing of natural gas and electricity contracts that operates in a North American Technology and Physical Clearing Alliance with Intercontinental Exchange, Inc.;

"*Natural Gas Service Agreement*" means an agreement for the provision of a Service Connection pursuant to the Terms and Conditions for Distribution Service Connection, between the Company and a Customer;

"*Nomination*" means a request in electronic or other written or verbal form for Gas to flow at a Point of Receipt, a Point of Delivery or for receipt into or delivery out of an Account at a specified quantity on a specified date(s);

"*Point of Delivery*" for service by the Company to the Customer, means, unless otherwise specified in a Natural Gas Service Agreement, the outlet side of a meter;

"*Point of Receipt*" means the point on the Company's system at which Retailer/DSP delivers Gas to the Gas Pipeline System under the Distribution Access Service Agreement. For clarity, this is usually indicated by Company's acceptance of a receipt Nomination into the Retailer/DSP's Account;

"Qualified Institution" means a Schedule I Chartered Bank in Canada, a major U.S. commercial bank, or a foreign bank with a U.S. or Canadian branch office which is not the Retailer (or a subsidiary or affiliate of the Retailer) having assets of at least CAD 10 billion and with a Credit Rating of at least "A" by S&P (or an equivalent rating by a comparable credit rating service);

"R3 Regulation" means the *Roles, Relationships and Responsibilities Regulation, A.R. 186/2003*, as amended from time to time;

"Rate Schedule" means the natural gas rate schedule prepared by the Company and approved by the AUC, as amended from time to time;

"Retailer" means a person who sells or provides retail Gas Services directly to Customers and who is entitled to enroll Customers for Distribution Access Service under these Terms and Conditions and includes Self-Retailers;

"Retailer Business Function Identification" means the 2 character identification that describes the Retailer's/DSP's business function as a Retailer or a DSP as is specified in the Company's Retailer Guide.

"Retailer/DSP Account" means an Account held by a Retailer or the DSP;

"Retailer Guide" means the guide prepared by the Company which describes the business processes between the Company and the Retailer/DSP in relation to the provision of service under these Terms and Conditions and AUC Rule 028;

"Retailer Identification" means the 9 digit number that uniquely represents each Retailer/DSP operating within Alberta;

"Retailer of Record" means the Retailer or DSP who is listed in the Company's records through the procedures outlined in these Terms and Conditions, AUC Rule 028 and Retailer Guide and thereby recognized by the Company, as a particular Customer's Retailer or DSP for a Point of Delivery at a particular time;

"*Rider D*" means a rate rider, expressed as a percentage, approved by the AUC applicable to Retailer/DSP Accounts for the recovery in kind of Unaccounted For Gas;

"*S&P*" means Standard & Poor's Financial Services LLC, or its successor;

"*Same Day Market*" means the intra-Alberta natural gas market that is generally available during trading hours on a calendar Day for transactions applicable to the Gas Day commencing on the same calendar Day;

"*Self-Retailer*" means a person carrying out Retailer functions to obtain Gas solely for its own use;

"*Service Connection*" shall have the meaning ascribed thereto in Company's Customer Terms and Conditions for Gas Distribution Service;

"*Single Family Dwelling*" means a private residence provided with sleeping and cooking facilities intended for domestic use and in which the occupants live as a single housekeeping unit that is not part of a multiple dwelling;

"*Site*" means a unique end-use Point of Delivery, being the finest level at which settlement recognizes Retailer and DSP assignments, and receives consumption data;

"*Site ID*" means a unique identification number assigned by the Company for each unique end-use Point of Delivery;

"*Specific Facilities*" means those facilities installed by the Company for the benefit of a particular Customer/Retailer/DSP which are connected to the Gas Pipeline System and are required to transport Gas;

"*Tariff Bill File*" means a physical electronic file containing site-specific tariff charges, usage and demand information for given tariff bill periods; it may also contain applicable site-specific one time charges. The tariff bill file rules are contained in AUC Rule 004 Alberta Tariff Billing Code;

"Transmission Balance Zone" means a range of Imbalances provided by NOVA Gas Transmission Ltd. within which the Company's Account on the Transmission System is considered to be in balance;

"Transmission System" means all those facilities owned or operated by ATCO Pipelines and NOVA Gas Transmission Ltd. in the receipt, delivery, transportation, measurement and testing of Gas (including, without limitation, transmission lines, regulators, meters, equipment and machinery);

"Unaccounted For Gas" means Retailer's and DSP's share of Company's unaccounted for Gas, as specified in rate Rider D of the Company's Rate Schedule;

"Yesterday Market" means the intra-Alberta natural gas market that is generally available during trading hours on a calendar Day for transactions applicable to the Gas Day commencing on the previous calendar Day.+

2.2 Conflicts

- (a) If there is any conflict between a provision expressly set out in an order of the AUC and these Terms and Conditions, the order of the AUC shall govern.
- (b) If there is any conflict between a provision expressly set out in these Terms and Conditions, as may be amended from time to time, and a Distribution Access Service Agreement, the express provision of these Terms and Conditions shall govern, as of their effective date.

2.3 Headings

The division of these Terms and Conditions into Articles, subsections and other subdivisions and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of these Terms and Conditions.



2.4 Schedules and Appendices

The following schedules and appendices form part of these Terms and Conditions:

- Schedule A – Distribution Access Service Agreement (attached to this document)
- Schedule B – De-energize Customer Site (attached to this document)
- Schedule C – Imbalance Purchase/Sales Charges (attached to this document)
- Schedule of Non-Discretionary Charges (available at www.atco.com)

ARTICLE 3 – GENERAL PROVISIONS

3.1 AUC Approval

These Terms and Conditions have been approved by the AUC. The Company may amend these Terms and Conditions by filing a notice of amendment with the AUC. Included in the notice to the AUC shall be notification of which Retailers/DSP are affected by the amendment and an explanation of how affected Retailers/DSP will be notified of the amendments. Any amendment to the Terms and Conditions will take effect sixty (60) days after such notice is filed, unless the AUC otherwise directs.

3.2 Gas Distribution Tariff

The Gas Distribution Tariff is available for public inspection during normal business hours at the business offices of the Company and at the offices of the AUC and can be accessed at: **www.atco.com**. These Terms and Conditions form part of the Gas Distribution Tariff.

3.3 Effective Date

These Terms and Conditions come into force as per the Effective Date shown on the cover page. Whenever the Company files notice of an amendment to these Terms and Conditions, or when the AUC approves an amendment to these Terms and Conditions, revisions will be issued, with the effective date of the amendments indicated thereon.



3.4 Application of Terms and Conditions

- (a) These Terms and Conditions, as amended from time to time, apply to the Company, to each Retailer and DSP. These Terms and Conditions also govern the relationship between the Company and Customer(s) for whom the Retailer/DSP is acting as an Agent in its dealings with the Company.
- (b) These Terms and Conditions also apply to any party appointed as Agent for a Retailer pursuant to an executed Agency Appointment Agreement, as set out in the Retailer Guide.
- (c) No agreement can provide for the waiver or alteration of any part of these Terms and Conditions unless such agreement is first filed with and approved by the AUC.

3.5 Retailer Guide

The Company has developed the Retailer Guide to help Retailers/DSP and Customers understand the normal practices of the Company. The Retailer Guide is available on the Company website at www.atco.com. The Retailer Guide will be updated, from time to time, to reflect changes to the Gas utility industry, or the changing needs of the Retailers, DSP or Customers. The Company is committed to follow practices in the Retailer Guide. However, as these practices cannot cover every situation that arises, it may be necessary to deviate from the Retailer Guide in certain circumstances.

3.6 Ownership of Gas Pipeline System

- (a) The Company remains the owner of all segments of the Gas Pipeline System, unless an agreement between the Company and the Retailer, DSP, or Customer specifically provides otherwise.
- (b) Payment made by Retailers/DSP or Customers for costs incurred by the Company in installing any segment of the Gas Pipeline System and Specific Facilities does not entitle Retailers/DSP or Customers to ownership of any such segment or any intellectual property, engineering, design, or other information or data, or any other



rights relating to or in respect to such Facilities unless an agreement between the Company and the Retailer, DSP or Customer specifically provides otherwise.

3.7 New Gas Pipeline System Segments, Specific Facilities and Service Additions

The Company reserves the right to communicate directly with the Customer in respect of any requests made by the Customer, or a party acting on its behalf, for the construction of new Gas Pipeline System segments, Specific Facilities or additional services as provided for in the *Natural Gas Billing Regulation, A.R. 185/2003*, as may be amended from time to time. The Company reserves the right to charge the Customer directly for any amounts required to be provided by the Customer under the Customer Terms and Conditions for Gas Distribution Service.

3.8 Title or Interest in Gas

The Company shall not acquire any title or interest in the Gas being transported under the Distribution Access Service Agreement.

3.9 Exclusive Control of Gas

Gas delivered to the Company by Retailer or DSP for transportation shall be under the exclusive control of the Company from the time such Gas is accepted for transportation at the Point of Receipt until delivered at the Point of Delivery.

3.10 Routing and Facilities

The Company does not dedicate the Gas Pipeline System or Specific Facilities to transport Gas for Retailers or DSP, and accordingly the routing and facilities used in the transportation of Gas through the Gas Pipeline System for Retailers and DSP shall be at the Company's sole discretion and may change from time to time.

3.11 Commingling or Exchange

The Company may in the course of transporting Gas through the Gas Pipeline System commingle with or exchange Gas owned by or transported for others, or remove certain

hydrocarbon components present in the Gas. As commingling, exchanging, or the removal of certain hydrocarbon components may alter the Gross Heating Value or constituent parts of the Gas between the Point of Receipt and the Point of Delivery, the Company shall not be required to deliver at the Point of Delivery Gas with the same Gross Heating Value or containing the same constituent parts as Gas delivered at the Point of Receipt and the Company shall make whatever compensating adjustments to volume and Gross Heating Value as may be warranted. In the event, and to the extent, that any hydrocarbon components in the Gas delivered at the Point of Receipt are absent from the Gas delivered at the Point of Delivery as the result of commingling, exchanging or removal of such hydrocarbon components in the course of transporting the Gas, title to such hydrocarbon components shall, notwithstanding anything to the contrary otherwise contained in the Distribution Access Service Agreement, be deemed conclusively to have passed to the Company.

3.12 Right to Transport

Retailer/DSP covenants with the Company that Retailer/DSP shall have the right to transport all Gas delivered under the Distribution Access Service Agreement to the Company at the Point of Receipt.

ARTICLE 4 – GENERAL OBLIGATIONS OF RETAILERS, DEFAULT SUPPLY PROVIDER

4.1 Timeliness, Due Diligence and Security Requirements

- (a) The Retailer/DSP shall exercise due diligence and use reasonable efforts in meeting its obligations hereunder, and perform same in a timely manner.
- (b) The Retailer shall adhere to all credit, deposit and security requirements specified in these Terms and Conditions.
- (c) The Retailer/DSP shall make every effort to ensure that its Customers are aware of the provisions of these Terms and Conditions that may affect the Customer(s).



4.2 Arrangements with Customers

Unless otherwise stated herein, the Retailer shall be solely responsible for having appropriate contractual or other arrangements with Customer(s) necessary to provide service to Customers. The Company shall not be responsible for monitoring, reviewing or enforcing such contracts or arrangements and shall not be liable for any loss, damages, cost, injury, expense or other liability, whether direct, indirect, consequential or special in nature, howsoever caused, as a result of the Retailer's failure to perform its obligations to its Customer(s).

4.3 Responsibility for Gas Purchases

The Retailer/DSP will be solely responsible for the purchase of Gas supply for the Customer(s) it provides Gas Services to and for arranging the delivery of such Gas to the Point of Delivery for the Customer(s), subject to these Terms and Conditions.

4.4 Retailer Authorization

The Retailer shall be responsible for obtaining authorization from each Customer authorizing the enrollment of the Customer for receipt of Distribution Access Service by such Retailer.

4.5 Retailer and DSP Identification

Any information exchange or communications between the Retailer or DSP and the Company under these Terms and Conditions shall employ Retailer Identification. The Retailer or DSP is required to specify the "Operating As" business name for each Retailer Identification.

4.6 Single Retailer/DSP for Customer

The Company shall not be required to recognize and deal with more than one Retailer and/or DSP in respect of a Point of Delivery at any given time. Nothing in these Terms and Conditions shall prohibit a Customer from entering into arrangements with multiple Retailers and/or DSP for a Point of Delivery, provided that a single Retailer/DSP is



designated to be the Customer's Retailer/DSP for the purposes of these Terms and Conditions.

4.7 Fees and Other Charges

The Company will provide all standard services hereunder pursuant to the Gas Distribution Tariff. All additional, supplementary or extra non-discretionary services provided by the Company to a Retailer/DSP or Customer where applicable will be charged a separate rate or fee, such as those included, without limitation, in the Schedule of Non-Discretionary Charges. Payment for these services shall be in accordance with the provisions of these Terms and Conditions.

ARTICLE 5 – CUSTOMER INQUIRIES AND CUSTOMER INFORMATION

5.1 Customer Inquiries

For Customers requesting information about retailer choice, the Company shall:

- (a) make available notification and informational materials to consumers about competition and consumer choices;
- (b) direct Customers to an external source where they may obtain information about consumer choice. The Company is under no obligation to assure the accuracy of this information.

5.2 Customer Inquiries Related to Emergency Situations and Outages

Retailers/DSP shall make every effort to ensure Customers contacting the Retailer/DSP regarding distribution emergency conditions, outages, safety or environment situations related to the Company's distribution system are referred directly to the Company immediately. The Company reserves the right, without providing notice to the Retailer/DSP, to test or audit the response time of the Retailer/DSP. The Company will communicate any unacceptable patterns to the Retailer/DSP to be corrected.

5.3 Customer Information

5.3.1 Provision of Customer Usage Information to a Retailer/DSP

The provision of Customer Usage Information to a Retailer/DSP will be as specified in AUC Rule 010.

5.3.2 Provision of Customer Information to the Company

The Retailer/DSP must notify the Company as promptly as reasonably practical of any changes to Customer Information, as the Company relies on this information to reasonably perform its Gas Distribution Service obligations to Customers. Such information shall be provided in a form that is compliant with AUC Rule 028 and the Retailer Guide. The Company shall not be liable for any loss, damages, cost, injury, expense or other liability, whether direct, indirect, consequential or special in nature, howsoever caused, as a result of the Retailer's/DSP's failure to provide up-to-date and accurate Customer Information to the Company. The Company reserves the right to assess a charge to recover the costs incurred by the Company for additional work undertaken by the Company as a result of inaccurate Customer Information provided by the Retailer/DSP, as set forth in the Schedule of Non-Discretionary Charges.

5.3.3 Provision of Customer Information to the Retailer

The Company will notify the Retailer/DSP of Customer Information and/or activities in situations where it is known or suspected that the Customer is vulnerable or where the Company and/or the Retailer/DSP are being adversely affected by the Customer's actions.

ARTICLE 6 – PROVISION OF SERVICE

6.1 Qualification for Service

6.1.1 Qualification for Service

The Retailer/DSP must fulfill the following requirements to the satisfaction of the Company before the Company will provide Distribution Access Service to that Retailer/DSP:

- (a) submit to the Company a fully completed, executed Distribution Access Service Agreement (Schedule A) and a Retailer of Record and Credit Application Form as set out in the Retailer Guide;
- (b)
 - (1) for Retailers, providing Gas Services to Customers whose annual consumption is less than or equal to 2500 GJ of gas per year, furnish a certified copy of the license issued to it and warrant in writing to the Company that it is licensed pursuant to and will comply with the provisions of the Consumer Protection Act, and any regulations or policies made thereunder;
 - (2) for Retailers providing Gas Service to Customers whose annual consumption is greater than 2500 GJ of gas per year, warrant in writing to the Company that it will comply with the provisions of the Consumer Protection Act, and any regulations or policies made thereunder.
- (c) the Retailer (excluding the DSP) must satisfy the credit requirements of the Company as set forth in Article 11 hereof;
- (d) warrant in writing to the Company that it will comply with the guidelines established in the Retailer Guide;
- (e) meet the compliance testing protocol of the Company in respect of information exchange, which protocol is set forth in the Retailer Guide;
- (f) meet any other requirements that the Company, acting reasonably, may impose in order to provide Distribution Access Service hereunder. If the Company determines that additional requirements must be satisfied in order to qualify for Distribution Access Service, the following process will apply:
 - (1) where the Company is confronted with a situation which the Company, in its sole discretion, considers would materially alter the risk to the Company, or where the Company must impose additional requirements

in order to comply with applicable legislation, the Company may implement the additional requirement and then apply to the AUC for approval of same; or,

- (2) where the Company is not confronted with the circumstances outlined in (1), above, the Company shall apply to the AUC for approval of the proposed additional requirement prior to implementing same.

6.1.2 Provision of Distribution Access Service

Upon satisfaction of the above requirements and ability of Retailer to meet processes specified in the Retailer Guide, the Company will provide Distribution Access Service to the Retailer/DSP, subject to these Terms and Conditions. Subject to complying with all applicable laws, and the directions or requirements of any of those mentioned above, the Company reserves the right upon giving the Retailer/DSP ten (10) Business Days' notice, acting reasonably, to discontinue Distribution Access Service to the Retailer/DSP if at any time the Retailer/DSP no longer fulfills the above requirements, subject to the provisions of Article 7.3, Article 11.2(d), Article 13 and Article 14.1(d) herein.

6.2 Application for Site Enrollment

- (a) In order to initiate the provision of Distribution Access Service by the Company, the Retailer/DSP shall complete and provide to the Company an enrollment for Distribution Access Service in the form and manner set out in AUC Rule 028.
- (b) The Company will, subject to the Retailer/DSP meeting the provisions of these Terms and Conditions and in compliance with the AUC Rule 028, accept an enrollment by a Retailer/DSP for provision of Distribution Access Service hereunder. The Company reserves the right to verify the identity of the Customer and the accuracy of the Customer Information.

- (c) Upon receipt of a valid enrollment from a Retailer/DSP in the form and manner set out in the AUC Rule 028, the Company will recognize the Retailer/DSP as the Retailer of Record for that particular Site.
- (d) Enrollments will be processed for Retailers by the Company on a first-come, first-served basis, followed by the DSP at the end of business day. Each enrollment will be time and date-stamped when received by the Company.
- (e) Once the enrollment is submitted, the Company will provide the Retailer, in accordance with AUC Rule 028, a status notification informing the Retailer whether the enrollment has been accepted or rejected.
- (f) In accordance with Article 12 of these Terms and Conditions, the Company will obtain meter reads from time to time. The Company does not obtain a company meter reading at the time of enrollment, de-enrollment or customer move in and out; the Company will estimate a meter read. At the request of the Retailer/DSP, the Company shall obtain an actual off-cycle meter read and assess a charge to the Retailer/DSP as set forth in the Schedule of Non-Discretionary Charges.
- (g) If a Retailer finds that it has enrolled an incorrect Site, that Retailer/DSP shall notify the Company as soon as reasonably possible. Upon receiving notice from the Retailer/DSP, the Company will notify the previous Retailer/DSP in the manner set out in AUC Rule 028.
- (h) The Retailer/DSP will not be liable to the Company for any outstanding indebtedness of the Customer to the Company, which accrued prior to the receipt by the Retailer/DSP of Distribution Access Service hereunder.



ARTICLE 7 – BILLING & PAYMENT

7.1 Retailer/DSP Billing

The Company will bill the Retailer/DSP for Distribution Access Services provided to the Retailer/DSP in accordance with AUC Rule 004 billing procedures set out as follows:

- (a) For the purpose of determining the amount to be billed and / or credited by the Company and paid by or to the Retailer/DSP for the transportation of Gas under the Distribution Access Service Agreement, the unit to be used shall be one (1) GJ.
- (b) The Company will invoice the Retailer/DSP each billing cycle for Distribution Access Service provided by the Company for the period prior to the billing cycle; including the Imbalance Purchase/Sale amount and Gas Settlement adjustment amount, if any, as stipulated in Article 7.2(b) and Article 13.3 herein. The Company also reserves the right to perform off-cycle billings.
- (c) The Company will not assume any billing or collection obligations or responsibilities for or on behalf of the Retailer/DSP. The Retailer/DSP shall process Customer payments and handle collection responsibilities.
- (d) The Company reserves the right to bill the Customer directly for any amounts required to be provided by the Customer under the Customer Terms and Conditions for Gas Distribution Service. The Retailer/DSP shall refer to the Schedule of Non-Discretionary Charges with respect to these services.
- (e) Retailers, DSP, or any party acting as an Agent on behalf of Retailers/DSP are required to provide Customers with notification of a Company distribution rate change in the billing envelope or through the electronic billing and payment process that accompanies the first charge to the Customer at the new rate.



7.2 Payment and Collection Terms

- (a) The Retailer/DSP shall pay to the Company, on or before the 15th Business Day following the Business Day on which the Retailer/DSP was invoiced, the amount invoiced by the Company for the preceding period.
- (b) Company shall invoice or credit, and Retailer/DSP shall pay or receive credit for, the monthly net Imbalance Purchase/Sale amount and Gas Settlement adjustment amount, if any, on the next available billing cycle following the date on which the amounts were determined by the Company;
- (c) The Company will establish an electronic billing and payment procedure for the payment of services hereunder. Notwithstanding, the Company will accept payment by cash or certified cheque if agreed to by the Company.
- (d) The Company has established two electronic billing options for Retailers/DSP electing to send and receive payments electronically. The Preauthorized Payment Agreement ("Authorization") and the Electronic Payment Transfer Agreement, as set out in the Retailer Guide, set forth the terms and conditions for making payments and providing remittance information electronically.
- (e) The Retailer/DSP shall pay all amounts owed to the Company for any of the Distribution Access Services (which includes Imbalance Purchase/Sale and Gas Settlement Adjustment amounts) provided by the Company whether or not the Customer has paid the Retailer/DSP.
- (f) Failure to receive a bill does not release a Retailer/DSP from the obligation to pay the amount owing for any of the Distribution Access Services provided by the Company.
- (g) The Company shall charge interest on the late payment as set forth in the Company's Rate Schedule.

7.3 Late or Unpaid Bills

- (a) If a Retailer defaults or is late in paying charges, subject to (b)(4) below, the Company will provide the Retailer notice as required below in (b)(1), and will be entitled to draw on the security of the Retailer if the Retailer's arrears are not paid within (3) three Business Days after the date of the notice. The Retailer must provide an additional deposit to replace the funds drawn down because of the default or late payment as stipulated in Article 11.2 herein.
- (b) (1) If a Retailer defaults in its payments the Company must provide the Retailer with a notice in writing stating that the Retailer is in default in its payments to the Company under the Company's Rate Schedule and these Terms and Conditions, and advising that the Company may make a claim against the Retailer's security if the arrears are not paid within (3) three Business Days after the date of the notice.
- (2) If after the expiry of the period set out in (b)(1) the Retailer's arrears remain unpaid, the Company may make a claim against the Retailer's security to cover the arrears. The Company may also discontinue or restrict Distribution Access Service to the Retailer with three (3) Business Days' notice if in its opinion not doing so could impair its ability to use the Retailer's security for continuing arrears or amounts that have not been billed but are owed to ATCO Gas.
- (3) If the Retailer has provided security in the form of a financial deposit, the Company may deduct from that deposit the amount of the unpaid arrears.
- (4) If in the opinion of the Company the giving of notice in accordance with (b)(1) would impair the Company's ability to make a claim against a Retailer's security or to deduct the unpaid arrears from a Retailer's financial deposit, the Company may make the claim or deduct the unpaid arrears without notice.
- (c) The Company may, at its sole discretion and in addition to any other remedies available to it, restrict enrollment or terminate Distribution Access Service to the



Retailer/DSP, if such Retailer/DSP does not pay all outstanding bills in accordance with these Terms and Conditions.

7.4 Adjustment of Bills

7.4.1 Billing Error

Should the Retailer/DSP dispute any amount owing, the Retailer/DSP shall nonetheless pay such disputed amount and submit the dispute for resolution in accordance with these Terms and Conditions. Following resolution of any such dispute, the Company will return any amount found owing, without interest, to the Retailer/DSP forthwith. The right or ability of either party to dispute a bill for service provided hereunder shall only apply to requests in writing and are limited to a period where electronic cancel and recharge may occur. The Company may assess a charge to the Retailer/DSP for reviewing billing disputes, in circumstances where the Company has not been responsible for any billing error.

7.4.2 Unauthorized Use

Where the Company determines that there has been unauthorized use of Gas Services including, but not limited to, meter or equipment tampering, unauthorized connection or reinstatement, theft, fraud, or intentional or unintentional use of Energy whereby the Company is denied full compensation for Distribution Access Services provided, the Company will bill the Customer or Retailer/DSP for the Company's estimate of Energy and delivery charges of such unauthorized use and require Customer prepayment for any repairs, damages and reconstruction of Company Facilities. Nothing in this Article shall limit any other rights or remedies that the Company may have in connection with such unauthorized use.

If it is determined that the Customer is not enrolled with a Retailer at the time of the unauthorized use, the Customer will pay any applicable charges incurred by the Company related to the unauthorized use.



ARTICLE 8 – DISTRIBUTION ACCESS SERVICE INTERRUPTION

8.1 Continuous Supply

The Company shall make all reasonable efforts to maintain a continuous Gas supply to the Retailer's/DSP's Customers, but the Company cannot guarantee an uninterrupted Gas supply.

8.2 Interruption

Without liability of any kind to the Company, the Company shall have the right to disconnect or otherwise curtail, interrupt or reduce service to the Retailer/DSP (and the Retailer's/DSP's Customers):

- (a) whenever the Company reasonably determines that such a disconnection, curtailment, interruption or reduction is necessary to facilitate construction, installation, maintenance, repair, replacement or inspection of any segment of the Gas Pipeline System;
- (b) to maintain the safety and reliability of the Gas Pipeline System; or,
- (c) due to any other reason related to dangerous or hazardous circumstances including emergencies, forced outages, potential overloading of the Gas Pipeline System or Force Majeure.

8.3 Reasonable Efforts

The Company shall use reasonable efforts to minimize any scheduled curtailment, interruption or reduction to the extent reasonably practicable under the circumstances, to provide the Customer with prior notification of any such curtailment, interruption or reduction to the extent reasonably practicable, and to resume Distribution Access Service as promptly as reasonably practicable.



ARTICLE 9 – DISCONTINUANCE OF DISTRIBUTION ACCESS SERVICE

This Article, as amended from time to time, describes the relationship between the Company and the Retailer/DSP in relation to de-enrollment of a Site, which includes, without limitation, the circumstances when a Retailer chooses not to arrange for Distribution Access Service to the Customer as set forth in Article 9.1, or when the Company discontinues Distribution Access Service to the Retailer/DSP as set forth in Article 9.2 herein, or when Retailer/DSP fails to provide supply or balance its Account as set forth in Article 13 herein. This Article does not cover the provisions under which a Customer requests its meter be removed or service line to be disconnected.

9.1 Discontinuance by the Retailer

- (a) To discontinue Distribution Access Service, a Retailer shall complete and provide to the Company an electronic de-enrollment in the form and manner set out in AUC Rule 028.
- (b) In accordance with Article 12 of these Terms and Conditions, the Company will obtain meter reads from time to time. The Company does not obtain an actual read at the time of the de-enrollment, and will estimate a meter read. At the request of the Retailer or with the Retailer's consent, the Company shall obtain an actual off-cycle meter read and assess a charge to the Retailer as set forth in the Schedule of Non-Discretionary Charges.
- (c) The Company will accept or reject the Retailer's de-enrollment in accordance with AUC Rule 028.
- (d) The Retailer is responsible to ensure that its Customers are provided notice of the de-enrollment, and the consequences thereof, and that the Company will not be held liable for any Customer disputes with the Retailer.
- (e) Upon receipt of a successful de-enrollment from a Retailer in the form and manner set out in AUC Rule 028, the Company will notify the Default Supply Provider to enroll. If the site is enrolled by a replacement Retailer or the situation described in

- (g) occurs within the period set out in AUC Rule 028, the Company will notify the DSP to not enroll the site.
- (f) The Retailer shall remain responsible for Gas Services to the Site until the de-enrollment effective date, a replacement Retailer/DSP is enrolled for the Site or the site is salvaged.
- (g) The Retailer may revoke a notification to de-enroll a Site as set out in AUC Rule 028.

9.2 Discontinuance by the Company

9.2.1 Discontinuance of DSP

The Company may discontinue or restrict Distribution Access Service to the DSP if any of the following occur:

- (a) the DSP has failed to meet its obligations under these Terms and Conditions or the Distribution Access Service Agreement with the Company.

9.2.2 Discontinuance of Retailer

The Company may discontinue or restrict Distribution Access Service to the Retailer if any of the following occur:

- (a) the Retailer has failed to meet its obligations under these Terms and Conditions or the Distribution Access Service Agreement with the Company,
or
- (b) the Retailer has failed to meet its credit requirements pursuant to Article 11, or
- (c) the Retailer has failed to meet its obligations pursuant to Article 13,
or
- (d) the Retailer's license has been revoked by Service Alberta.

9.2.3 Notice of Discontinuance

Notification of discontinuance will be made electronically to the Retailer/DSP. The Company will provide the Retailer/DSP notice before the Company discontinues Distribution Access Service to the Retailer/DSP, subject to the provisions of these Terms and Conditions. Upon discontinuance of Distribution Access Service to a Retailer pursuant to this Article, the provision of the affected service(s) will be assumed by the DSP.

ARTICLE 10 – SERVICE DE-ENERGIZATION AND REINSTATEMENT

This Article, as amended from time to time, describes the relationship between the Company and the Retailer/DSP in relation to the physical disconnect or curtailment of a Point of Delivery.

10.1 Disconnection or De-energization of Service

10.1.1 Disconnection or De-energization by the Company

- (a) The Company reserves the right to disconnect or de-energize Gas Distribution Service to the site in a number of circumstances, including but not limited to non-payment of the Company bills or any past due charges by the Customer; evidence of safety violations or fraud at the site; threats or harassment of employees or agents of the Company, failure to provide access for meter readings, or the Customer failing to meet its obligations under the Customer Terms and Conditions for Gas Distribution Service.

- (b) If the disconnect or de-energize is a result of a safety violation, the Company will reinstate the service when the safety problem is resolved and when the Customer has paid all of the Company's costs related to addressing damage, interference or disturbance, including installation of devices or equipment as necessary. The Company may also assess a reinstatement charge to the Retailer/DSP as set forth in the Schedule of Non-Discretionary Charges.

10.1.2 De-energization at Request of Retailer/DSP

- (a) In accordance with subsection 5(1) of the R3 Regulation, the Retailer/DSP shall have the right to request that the Company de-energize service to a particular Site, including on behalf of a customer. This request must be the de-energize transaction in the form and manner set out in AUC Rule 028.
- (b) The Company has the right to determine volumes of de-energizations it can complete, based on providing a reasonable response time to re-energization requests.
- (c) The Retailer/DSP shall remain responsible for all Gas Services to the Site until the Company has completed the de-energization.
- (d) The Company will notify the Retailer/DSP if a de-energization request was not successfully completed and include the reason why it was not successfully completed. If the Retailer/DSP still requires a de-energization, the Retailer/DSP must re-issue a de-energize request.
- (e) The Retailer/DSP must refer Customers to the Company when the Customer wishes to have portions of the Gas Pipeline System and Specific Facilities removed from the Site.
- (f) The Company shall not be liable to any person for any damages, cost, expense, injury, loss or other liability of any kind whatsoever, or however caused, resulting directly or indirectly from its good faith performance of its responsibilities under the provisions of this Article.

10.2 Reinstate Service

Before reinstating or restoring service to a particular Site:

- (a) the enrolled Retailer/DSP must provide the Company with authorization to reinstate service;

- (b) the Company reserves the right to assess a reinstatement charge for all attempts to reinstate service as set forth in the Schedule of Non-Discretionary Charges, pursuant to this Article.

ARTICLE 11 – PRUDENTIAL REQUIREMENTS

In circumstances where the Retailer has multiple Retailer Identification numbers, the review, setting and maintaining of prudential requirements shall be based on the Retailer Business Function Identification level.

11.1 Setting of Prudential Requirements

- (a) The Retailer must fulfill the requirements as set forth in this Article to the satisfaction of the Company before the Company will provide Distribution Access Service to that Retailer.
- (b) Subject to review and reassessment of the prudential requirements of a Retailer by the Company from time to time, a Retailer shall meet and maintain such financial and other prudential requirements as set out in the Natural Gas Billing Regulation, A.R. 185/2003, as amended from time to time, to ensure that the Retailer is and remains of sufficient financial standing to meet its ongoing financial obligations.
- (c) The Company will confirm the Credit Rating of the Retailer, affiliate or person which guarantees the financial obligation of the Retailer.

The minimum Credit Rating that will qualify a Retailer for a reduction in security or allowing a person to provide an irrevocable guarantee of the Retailer’s financial obligation is BBB-, as set out in Section 6(3) of the Natural Gas Billing Regulation A.R 185/2003 as amended from time to time.

If a Retailer has obtained more than one Credit Rating, the lowest Credit Rating will be used in the assessment.



- (d) Subject to review and reassessment, the Company shall determine the amount of the security reduction available for each Retailer, and the maximum amount of any guarantee required from the person guaranteeing the financial obligations of the Retailer, subject to sections 5, 6 and 7 of the Natural Gas Billing Regulation, A.R. 185/2003, as amended from time to time. The Company shall notify the Retailer of its security requirement within 20 (twenty) Business Days from the receipt of the Retailer's complete application for service.
- (e) For the purposes of calculating the amount of the Retailer's security deposit required, the Retailer will add an additional 20 days of projected payments (the Load Balancing Security) under the Company's Rate Schedule to the amount of security deposit required under the Natural Gas Billing Regulation A.R. 185/2003, as amended from time to time, which shall serve as separate security in respect of any Imbalance Sales that ATCO Gas may be required to charge the Retailer in order to balance their accounts.
- (f) For greater certainty, for the purposes of calculating the amount of the Retailer's security deposit required, the Retailer will add any additional projected payments that ATCO Gas is required to remit on behalf of the Retailer's customers related to any carbon-related tax, fee, or levy enacted by a governmental authority, which shall serve as security in respect of any additional payments that ATCO Gas is required to remit to any governmental authority on behalf of the Retailer's Customers.
- (g) Subject to section 6 of the Natural Gas Billing Regulation, A.R., 185/2003, as amended from time to time, the Retailer shall provide security in the manner set out in the Retailer Guide, in the form of a cash deposit, an irrevocable letter of credit from a Qualified Institution or an irrevocable guarantee. Notwithstanding the definitions under these Terms and Conditions, the relationship between the Retailer and the Company is a relationship of creditor and debtor, respectively. Where the Retailer provides security in the form of a cash deposit, all right, title, and interest is transferred absolutely; will vest in the Company free and clear of any liens, claims, charges and encumbrances; and no security interest will be created in the cash. An



irrevocable guarantee may only be provided from a person acceptable to the Company, other than the Retailer, with a qualifying credit rating.

11.2 Maintaining Prudential Requirements

- (a) If a Retailer's actual outstanding charges under the Company's Rate Schedule and these Terms and Conditions are materially greater than the value projected by the Retailer under Article 11.1 of these Terms and Conditions, the Company will update the projection and, if additional security is required based on the updated projection, require the Retailer to provide additional security within five (5) Business Days of the Company's request.
- (b) The Company requires Retailers to report any downgrading of the Retailer's Credit Rating to the Company within two (2) Business Days of said Credit Rating revisions, and must provide any additional security required as a result of the downgrading within five (5) Business Days of the downgrading.
- (c) If a Retailer fails to pay any amount billed, subject to Article 7.3 of these Terms and Conditions, the Retailer hereby grants to the Company and the Company also is entitled to a right to "Set-off" any amounts payable by the Retailer with respect to any obligations of the Retailer to the Company, or when the Retailer has provided security in the form of an irrevocable letter of credit or irrevocable guarantee. The Company will apply all or any portion of that Retailer's security deposit to the unpaid amount. The Retailer will then be required to replenish the security deposit within five (5) Business Days.
- (d) If the Retailer fails to maintain its prudential requirements in accordance with Article 11 the Company reserves the right to suspend the provision of additional Distribution Access Service to the Retailer, or discontinue Distribution Access Service to the Retailer. The Company will provide the Retailer notice of discontinuance three (3) Business Days before the Company discontinues Distribution Access Service to the Retailer. Upon discontinuance of Distribution Access Service to a Retailer pursuant to this Article, provision of the affected service(s) will be assumed by the DSP.

- (e) A Retailer that is required to provide security in accordance with the *Natural Gas Billing Regulation*, AR 185/2003, as amended from time to time, and these Terms and Conditions must maintain that amount of security until all obligations of the Retailer under the Company's Gas Distribution Tariff are satisfied. A Retailer who provides security other than by means of a cash deposit held by the Company, must either ensure that its security has no expiry date and cannot be terminated, or must at all times ensure that its security is automatically extended from year to year, for successive periods of a minimum of one year from any expiration date thereof, unless the Company is notified in writing by prepaid registered mail not less than 30 days prior to any expiration date that the security will not be renewed for any such additional period ("Notice of Non-Renewal"). A Retailer who provides security other than by means of a cash deposit held by the Company, must ensure that its security is executable from an intermediary bank branch or office with a drawing location in Calgary, Alberta.
- (f) Upon receipt of a Notice of Non-Renewal, the Company shall provide notice of same in writing to the Retailer advising that the Retailer's failure to provide the Company with alternate security meeting the requirements set out in the *Natural Gas Billing Regulation*, AR 185/2003, within 3 business days after the date of the notice shall be in breach of the Retailer's obligation to maintain its security in accordance with s.8 of the *Natural Gas Billing Regulation*, AR 185/2003, and an event of default under Article 14.1(d) of these Terms and Conditions. If after 3 Business Days the Company is not in receipt of such alternate security, the full amount of the Retailer's security determined in accordance with Article 11.1 of these Terms and Conditions shall become due and payable to the Company and the Company shall be entitled to make demand or claim against the Retailer's security in accordance with Article 14.3.
- (g) In the event of a default by a Retailer, the Company is entitled to recover as part of the Gas Distribution Tariff any costs not covered by a claim against the Retailer's security under section 9 of the *Natural Gas Billing Regulation* AR 185/2003 as amended from time to time.

11.3 Confidentiality

All information provided by the Retailer in relation to its financial standing and designated by the Retailer as confidential will be treated as such under the Confidentiality Agreement between the Retailer and the Company. The terms and conditions of the Confidentiality Agreement are set out in the Retailer Guide.

11.4 Costs

All costs associated with obtaining financial security and meeting prudential requirements under this Article are the responsibility of the Retailer.

11.5 Interest on Security Deposits

Interest on each Retailer's cash security deposit held by the Company will be calculated at the rate specified from time to time in the *Residential Tenancies Act, S.A. 2004, C.R-17.1*. Interest will be paid to the Retailer annually.

11.6 Letter of Credit Default

Letter of Credit Default shall mean, with respect to an outstanding letter of credit, the occurrence of any of the following events:

- (1) The issuer of the letter of credit ceases to be a Qualified Institution;
- (2) The issuer of the Letter of Credit fails to comply with or perform its obligations under such letter of credit and such failure continues after the lapse of any applicable grace period;
- (3) The issuer of such letter of credit disaffirms, disclaims, repudiates or rejects, in whole or in part, or challenges the validity of such letter of credit;
- (4) The letter of credit expires, terminates, or ceases to be in full force and effect at any time; or

- (5) Any party related to the issuance of such letter of credit or credit support provider is dissolved, becomes insolvent or is unable to pay its debts, or fails or admits in writing its inability generally to pay its debts as they become due, makes a general assignment, arrangement or composition with or for the benefit of its creditors, files a petition for itself or a petition is filed by a 3rd party under the *Bankruptcy and Insolvency Act* of Canada, the *Companies' Creditors Arrangement Act*, or similar acts of other forbearing jurisdictions

ARTICLE 12 – METERING

12.1 Provision and Ownership

The meters used by the Company to assess the level of Distribution Access Service charges to the Retailer/DSP will be the same meters used to provide regular site billing Information to the Retailer/DSP. The Company will provide and install all meters for each Point of Delivery at a site enrolled by the Retailer/DSP in accordance with the Company's Customer Terms and Conditions for Gas Distribution Service. Each meter shall remain the property of the Company.

12.2 Meter Reading

Billing will be based on meter readings made by the Company from time to time or on estimates for those billing periods when the meter is not read. The Company reserves the right to assess a charge to the Retailer/DSP for additional reads above the Company's standard practices as set forth in the Schedule of Non-Discretionary Charges.

12.3 Changes to Metering Equipment

- (a) Notwithstanding Article 3.7, should a Retailer/DSP request or consent to a Customer request for new metering equipment beyond the basic service, the Company shall provide, install, test and maintain the required metering equipment. The metering equipment must be requested or consented to in writing by the Customer and meet the Company's requirements. The Customer shall bear the cost of providing and installing the metering equipment, and ongoing operating costs as set forth in the Schedule of Non-Discretionary Charges.

The metering equipment will remain the property of the Company and will be maintained by the Company. The Company shall complete installation of the metering equipment within thirty (30) days of delivery from the supplier. The Company may require prepayment prior to installation. In any event, the Customer shall pay the Company in full as per the terms stated on the invoice. If payment is not received as per the terms stated on the invoice, the Company shall charge interest on the late payment as per the terms stated on the invoice. Article 7.3 herein will also apply in the event of late or unpaid bills.

- (b) Notwithstanding Article 3.7, should a Customer request to return the metering equipment to its previous basic form, the Customer shall bear the cost of removal and installation of the metering equipment.
- (c) At the request of a Retailer/DSP, or with the Retailer's/DSP's consent, the Company may provide other metering services, above standard metering service, in its discretion, acting reasonably, and may charge separate fees for such services.
- (d) The Company reserves the right to bill costs related to requests for changes in metering made by the Customer or Retailer/DSP to the Retailer/DSP.

12.4 Meter Reading and Estimates

Meter Reading:

- (i) The Company shall determine the method of meter reading collection for its meters and equipment.
- (ii) Where the Company has determined the method of collection is through an automated meter reading device and the Customer refuses to allow installation, the Company will attempt Company meter readings approximately every six months. The Customer will be charged for each

meter reading attempt as stated in the Schedule of Non-Discretionary Charges through the monthly tariff bill sent to the Retailer/DSP.

- (iii) Where the Customer requests the removal of an automated meter reading device, the Company will remove the device and will apply the appropriate fee as stated in the Schedule of Non-Discretionary Charges to the monthly tariff bill sent to the Retailer/DSP. In addition, the Company will attempt Company meter readings approximately every six months. The Customer will be charged for each meter reading attempt as stated in the Schedule of Non-Discretionary Charges through the monthly tariff bill sent to the Retailer/DSP.
- (iv) In any event the Company will require a meter reading twice per year or as directed by Measurement Canada or such other regulatory requirement.
- (v) In the event that there is a discrepancy between the mounted meter index and a meter monitoring or automated meter reading device, the mounted meter index reading will be deemed to be correct unless a meter test proves otherwise.
- (vi) The Company will assess a charge to the Customer or Customer's Retailer/DSP for additional reads above the Company's standard practices as well as in situations where a Customer has refused to allow an automated meter reading device to be installed. This charge is defined in the Schedule of Non-Discretionary Charges.
- (vii) The Company shall keep an accurate record of all meter readings for the purpose of billing the Gas Distribution Services provided.
- (viii) The Company may elect to change the meter reading schedule for a site, providing advance notice to the Retailer/DSP as defined by AUC Rule 004.

- (ix) The Company is not required to use a Customer provided meter reading for billing purposes.

12.5 Meter Test and Adjustments

- (a) The Company may inspect and test a meter at any reasonable time.
- (b) The Company shall arrange for a meter to be removed and tested by an official designated for that purpose by Measurement Canada or an accredited agency as may, from time to time, be designated for this purpose in the event of a Customer initiated meter test.
- (c) If a test determines that the meter is not accurate within the limits set by government standards, the Retailer's/DSP's bill will be adjusted accordingly. Where it is impossible to determine when the error commenced, it shall be deemed to have commenced three (3) months before the test or the date of the meter installation, whichever occurred later. The Company shall not be liable to the Retailer/DSP or Customer for any additional costs that are associated with such metering or meter reading errors.
- (d) The Company reserves the right to assess a charge to the Customer or Customer's Retailer/DSP at the time of a meter test as set forth in the Schedule of Non-Discretionary Charges. This charge is reimbursed when the meter tested is found to be faulty.
- (e) If any appliance of a Customer connected to the Gas Pipeline System prevents or impedes the meter from accurately recording the total amount of energy supplied, the Company may forthwith de-energize or disconnect the Customer's Gas Distribution Service, or disconnect such appliance from the Gas Pipeline System and shall, in either case, estimate the amount of energy consumed and not registered, as accurately as it is able to do so, together with any costs incurred by the Company in disconnecting such Gas Distribution Service, or appliance, and repair of any damage to the Company's Gas Pipeline System as the case may be.



The Retailer's/DSP's bill will be adjusted accordingly for the estimated amount of energy, delivery charges, and all other related costs.

ARTICLE 13 – ACCOUNT BALANCING

13.1 Retailer/DSP Account

- (a) The Retailer/DSP Account shall be accumulated and recorded by Company each Day and, without limitation, shall include such items as Gas supply Nominations, Retailer Load, Imbalance quantity, opening Imbalance quantity, Retailer/DSP's share of Company's Unaccounted For Gas and/or other adjustment quantity(ies) deemed appropriate as determined by the Company from time to time.
- (b) Each Day the Company shall Forecast and Backcast Retailer's Load according to the practices specified in the Company's Retailer Guide.
- (c) The Retailer/DSP shall provide in kind Unaccounted For Gas each Day at the rate specified in Rider D.
- (d) The Company shall make the Account available to the Retailer/DSP in the manner described in the Retailer Guide.
- (e) The Retailer/DSP shall be required to hold one Account for the Retailer/DSP's Customers.

13.2 Exchange of Gas

- (a) The Retailer/DSP warrants that it will make its Gas supply available in an Account on the Transmission System and that the Company will make that Gas available in the Retailer/DSP's Account by means of an exchange with that Account on the Transmission System and the Company's Account on the Transmission System, subject to the procedures described in the Retailer Guide.

13.3 Daily Retailer/DSP Account Balance

- (a) For each Gas Day, the energy quantity of the Retailer/DSP Account Imbalance Window shall be calculated by multiplying the daily Backcast by the \pm Imbalance Window percentage specified on Schedule C and rounded to the nearest GJ, provided that the resultant is not less than the minimum energy Imbalance Window specified on Schedule C.
- (b) The Retailer/DSP shall at all times endeavor to maintain its daily Account Imbalance energy within the quantity specified by the daily Imbalance Window.
- (c) For each Gas Day, in the event the absolute value of the Retailer/DSP Account daily Imbalance energy is greater than the absolute value of the quantity specified by the daily Imbalance Window, the difference quantity shall be settled by Imbalance Purchase/Sale at the price specified on Schedule C.
- (d) The net quantity and dollars resulting from the Imbalance Purchase and Imbalance Sales transactions in (c), if any, will be invoiced to Retailer/DSP once per Month as specified in Article 7.

13.4 Retailer/DSP Account Monitoring Rules

The Company shall perform monitoring of the Retailer/DSP's Account according to the following:

- (a) Step 1
 - i. If there is no evidence of a Nomination in the Retailer's Account by 10:00 a.m. local time of the current Gas Day (Gas Day 1), which has not been pre-authorized by the Company, the Company will attempt to contact the Retailer for an explanation. If the Retailer indicates in writing (by email) that it intends to balance the Account within the Account Balancing timeline specified in the Retailer Guide, then the Company will take no further action at Step 1. For the purposes of this clause, "balance the Account" means the Retailer provided sufficient gas supply for Gas Day 1 such that the resulting Account Imbalance on Gas Day 1

was within the Imbalance Window and no Imbalance Purchase/Sale was triggered.

ii. If at (a)(i) above:

1. the Company, with reasonable effort by telephone and email, is unable to contact the Retailer by the time of the release of the F3 Forecast for Gas Day 1, or
2. the Retailer has indicated an inability to make Nominations to its Account for Gas Day 1, or
3. there continues to be no evidence of a Nomination in the Retailer's Account by the time of the release of the F3 Forecast for Gas Day 1,

then the Company will transact on the Same Day Market based on the F3 Forecast for Gas Day 1. The transaction(s) will be recorded in the Company's Account on the Transmission System, not the Retailer's Account, and charged to the LBDA. The Retailer's Account will be closed for the remainder of Gas Day 1 and the rules related to Imbalance Purchase/Sale as stipulated in these Terms & Conditions will be in effect for the Retailer's Account on Gas Day 1.

(b) Step 2

- i. If there is no evidence of a Nomination in the Account by 10:00 a.m. local time of the Gas Day following Gas Day 1 (i.e. Gas Day 2), which has not been pre-authorized by the Company, the Company will attempt to contact the Retailer for an explanation. This rule will also apply to those Retailers who made a commitment to balance their Account in Step 1, but did not fulfill that commitment, even if a Nomination was made for Gas Day 1. The Retailer will be required to nominate gas supply equal to the F3 Forecast for Gas Day 2 no later than one half ($\frac{1}{2}$) hour after the F3 Forecast has been issued.
- ii. If at (b)(i) above



1. the Company, with reasonable effort by telephone and email, is unable to contact the Retailer by the time of one half ($\frac{1}{2}$) hour after the release of the F3 Forecast for Gas Day 2, or
2. the Retailer has indicated an inability to make the Nominations to its Account for Gas Day 2, or
3. the gas supply in the Retailer's Account does not equal the F3 Forecast energy by the time of one half ($\frac{1}{2}$) hour after the release of the F3 Forecast for Gas Day 2,

then the Company will transact on the Same Day Market based on the F3 Forecast for Gas Day 2. The transaction(s) will be recorded in the Company's Account on the Transmission System, not the Retailer's Account, and charged to the LBDA. The Retailer's Account will be closed for the remainder of Gas Day 2 and the rules related to Imbalance Purchase/Sale as stipulated in these Terms & Conditions will be in effect for the Retailer's Account on Gas Day 2.

The Company will also provide electronic notice to the Retailer indicating that unless the Retailer takes action to provide gas supply to its Account sufficient to alleviate Company's concerns by 10:00 a.m. local time of the next Gas Day (i.e. Gas Day 3), the Company intends to permanently close the Retailer's Account during Gas Day 3.

(c) Step 3

If there is no evidence of a Nomination in the Retailer's Account by 10:00 a.m. local time of the current Gas Day (Gas Day 3), which has not been pre-authorized by the Company, the Company will provide electronic notice to the Retailer that its Account is permanently closed. The Company will commence de-enrollment of Sites associated with the Retailer's Account during Gas Day 3 to first take effect on Gas Day 4.

The Company will transact on the Same Day Market based on the F3 Forecast for Gas Day 3. The transaction(s) will be recorded in the Company's Account on the Transmission System, not the Retailer's Account, and charged to the LBDA. The rules related to Imbalance Purchase/Sale as stipulated in these Terms & Conditions will be in effect for the Retailer's Account.

(d) Step 4

The Company will continue to transact in the Same Day Market based on the F3 Forecast for the Retailer who has defaulted until all the Retailer's Sites have been de-enrolled and successfully re-enrolled with the DSP. The transaction(s) will be recorded in the Company's Account on the Transmission System, not the Retailer's Account and the rules related to Imbalance Purchase/Sale as stipulated in these Terms & Conditions will be in effect. When all of the defaulting Retailer's Sites have been successfully enrolled with the DSP, the termination of Distribution Access Service will be complete and Company will not undertake any further transactions on behalf of the defaulting Retailer. The Company will continue to apply the rules related to Imbalance Purchase/Sale to the Retailer's Account as a result of adjustments related to settlement or other matters which occur after the Retailer's Account has been permanently closed.

(e) Step 5

In the event of non-payment on the part of the Retailer, and without limiting the Company's rights or remedies at law or in equity, the Company shall have the right to recover any charges to a Retailer by claiming against the Retailer's or Agent's performance bond (as stipulated in Article 11 of these Terms and Conditions) which exists to secure due performance by the Retailer or Agent of its obligation under the Distribution Access Service Agreement.

(f) The Account monitoring rules described above will also be used to monitor the DSP Account to provide early detection of issues that may result in obligations under the terms specified in the commercial arrangements between the Company and the DSP.

- (g) In the event that the Company is notified by the Retailer in writing (by email) or in the event that the Company becomes aware that the Retailer has declared itself or has been declared to be insolvent prior to the full three days of Account monitoring described in this section, the Company shall have the right to discontinue Distribution Access Service with one (1) Business Days' notice.

13.5 Termination of Retailer Service

- (a) These Terms and Conditions shall continue in force until all the Retailer's Sites have been de-enrolled and Final Monthly Settlement for the Retailer's Account has been completed, whereupon Company shall terminate the Retailer's Account. The Company will continue to transact in the Same Day Market based on the F3 Forecast for the Retailer who has defaulted until all the Retailer's Sites have been de-enrolled and successfully re-enrolled with the DSP. The transaction(s) will be recorded in the Company's Account on the Transmission System, not the Retailer's Account and the rules related to Imbalance Purchase/Sale as stipulated in these Terms & Conditions will be in effect.
- (b) Notwithstanding the provisions of (a), upon mutual agreement, the Retailer and the Company may enter into an arrangement to settle the outstanding energy amounts in the Retailer's terminating Account, including without limitation, the Account closing Imbalance, in a manner that is different than is normally required under the provisions of these Terms and Conditions and/or the Retailer Guide.

13.6 Request for Additional Information

A Retailer may request additional settlement information above the basic service provisions specified in the Retailer Guide or information previously provided by the Company if:

- (a) the Retailer provides a written request to the Company outlining the purpose for the additional settlement information; and
- (b) the additional settlement information applies only to the Customers of the Retailer.

Upon satisfaction of the above requirements, the Company will advise the Retailer in a written proposal of the type of work, time of delivery and charges necessary to provide the additional settlement information to the Retailer.

13.7 Liability

The Company shall not be liable to any person for any damages, cost, expense, injury, loss or other liability of any kind whatsoever, or however caused, resulting directly or indirectly from its good faith performance of its responsibilities under the provisions of this Article. No express or implied warranties of any kind shall apply to information or services provided by the Company to any person as part of such good faith performance, including without limitation implied warranties of fitness for a particular purpose.

ARTICLE 14 – DEFAULT

14.1 Events of Default

An event of default under these Terms and Conditions and the Distribution Access Service Agreement will occur if either the Company, the DSP or the Retailer (“Defaulting Party”):

- (a) is the subject of a bankruptcy, insolvency or similar proceeding;
- (b) makes an assignment for the benefit of its creditors;
- (c) applies for, seeks, consents to, or acquiesces in the appointment of a receiver, custodian, trustee, liquidator or similar official to manage all or a substantial portion of its assets;
- (d) fails to pay the other party (“Non-Defaulting Party”) when payment is due, or to satisfy any other material obligation under these Terms and Conditions or the Distribution Access Service Agreement including, without limiting the generality of the foregoing, fulfilling the prudential requirements as set forth in Article 11, in accordance with these Terms and Conditions, and fails to remedy the failure or

satisfy the obligation, as the case may be, within three (3) Business Days after receipt of written notice thereof from the Non-Defaulting Party;

(e) fails to balance its Account in accordance with Article 13.

14.2 Rights Upon Default

In an event of default, the Non-Defaulting Party shall, subject to these Terms and Conditions and any applicable regulatory requirements, be entitled to pursue any and all available legal and equitable remedies and terminate the Distribution Access Service Agreement. Where the Defaulting Party is the Company or the Retailer and the Non-Defaulting Party elects to terminate, the Distribution Access Service Agreement is terminated without any liability or responsibility whatsoever, except for obligations arising prior to the date of termination. The Non-Defaulting Party shall provide written notice to the Defaulting Party of its intention to terminate Distribution Access Service hereunder.

14.3 Recourse to Security Upon Retailer Default

In addition to any other rights and remedies set out herein, in an event of default by the Retailer, other than a default in payment addressed under section 9 of *Natural Gas Billing Regulation*, AR 185/2003, the full amount of the Retailer's security determined in accordance with Article 11.1 of these Terms and Conditions shall become due and payable to the Company and the Company shall be entitled to make demand or claim against the Retailer's security for the full amount secured thereunder. All funds received by the Company in respect of such claim shall be retained by the Company and applied against the Retailer's obligations hereunder until such time as all of the Retailer's obligations have been determined and satisfied. Any balance remaining after satisfaction of the Retailer's obligations shall be returned to the issuing party of the security for the benefit of the Retailer.

14.4 Termination on Default

If any one or more of the parties to the Distribution Access Service Agreement fails to perform any of the covenants or obligations imposed upon it under and by virtue of the



Distribution Access Service Agreement (the "Defaulting Party"), then in any such event, the other party or parties to the Distribution Access Service Agreement (the "Non-Defaulting Party") may at its option terminate the Distribution Access Service Agreement insofar and only insofar as the Distribution Access Service Agreement pertains to the Defaulting Party by proceeding as follows:

- (a) The Non-Defaulting Party shall cause a notice in writing to be given to the Defaulting Party advising as to the nature of any default and declaring it to be the intention of the Non-Defaulting Party to terminate the Distribution Access Service Agreement.

ARTICLE 15 – IMPAIRED DELIVERIES

If by reason of the causes set forth in this Article, the Company is unable, in whole or in part, to deliver the quantities of Gas provided for in the Distribution Access Service Agreement, then the Company shall be relieved of liability for not delivering such quantities, and the Company may curtail or discontinue deliveries of Gas under the Distribution Access Service Agreement during the continuance and to the extent of the inability; provided however that the Company shall endeavor to give reasonable notice of any curtailment or discontinuance of deliveries arising by virtue of such causes and shall promptly endeavor to remedy the cause of any curtailment or discontinuance of deliveries as soon as reasonably possible. Such notice shall specify the Company's estimate of the duration of any such curtailment or discontinuance of deliveries under the Distribution Access Service Agreement. The causes above referred to shall be:

- (a) the necessity, in the Company's sole opinion, of making modifications or improvements to the Gas Pipeline System; provided however that the Company shall, when practicable, endeavor to effect such modifications or improvements, which are not emergency in nature, at a time and in a manner which shall not unduly interfere with or interrupt deliveries of Gas; or
- (b) the necessity of making repairs to the Gas Pipeline System.

ARTICLE 16 – LIABILITY AND INDEMNITY

16.1 Indemnity

- (a) Each party (as applicable, the "Indemnitor") will indemnify and hold harmless the other party and its directors, officers, employees, agents and representatives ("Indemnitee(s)") from and against any direct damages, injuries, losses and other liabilities claimed against the Indemnitee or any of them, and all related costs and expenses (including reasonable legal fees) suffered or incurred by any of them in relation to any claim, cause of action, action, suit or proceeding by a third party ("Claim") which arises from damage to property or injury to or death of persons resulting from the Indemnitor's failure to perform its obligations under these Terms and Conditions which failure is caused by the negligence or willful act of the Indemnitor or any of its directors, officers, employees, agents or representatives acting within the scope of their authority or employment. The indemnity under this Article will be limited to an amount in proportion to the degree to which the Indemnitor or its directors, officers, employees, agents or representatives acting within the scope of their authority or employment are at fault. For the purpose of this Article "willful act" means any act or omission which is an intentional tort or an intentional breach of any obligations under these Terms and Conditions.
- (b) In the event that an Indemnitee is entitled to and desires to assert its right to indemnification from an Indemnitor under this Article 16.1 such Indemnitee will give the Indemnitor prompt notice of the Claim, which shall describe the Claim in reasonable detail and shall indicate the estimated amount, if practicable, of the indemnifiable loss that has been or may be sustained by the Indemnitee. The failure to promptly notify the Indemnitor hereunder shall not relieve the Indemnitor of its obligations hereunder, except to the extent that the Indemnitor is actually and materially prejudiced by the failure to so notify promptly.
- (c) Subject to Article 16.1(d) hereof, if the Indemnitor delivers to the Indemnitee a written acknowledgement of its unconditional and irrevocable obligation to indemnify the Indemnitee under Article 16.1(a) in respect of:

- (1) all of the damages, injuries, losses, liabilities, costs and expenses that may be claimed against, or suffered or incurred by, the Indemnitee in respect of the Claim within 10 days following the Indemnitor's receipt of the Indemnitee's notice of such Claim and if the existence of such obligation to indemnify is made known by the Indemnitor to the third party claimant (and, if applicable, to the court or other tribunal determining the Claim), the Indemnitee shall make available to the Indemnitor all information in its possession or to which it has access, other than information that has been designated as confidential by the provider of such information, which is or may be relevant to the particular Claim and the Indemnitor shall be entitled, at its option, to take carriage of the defense of the Claim by its own counsel and, if it elects to do so, the Indemnitee shall cooperate with the Indemnitor to the fullest reasonable extent in the defense, settlement or compromise of the Claim; or

- (2) some, but less than all, of the damages, injuries, losses, liabilities, costs and expenses that may be claimed against, or suffered or incurred by, the Indemnitee in respect of the Claim within 10 days following the Indemnitor's receipt of the Indemnitee's notice of such Claim and if the Indemnitee is of the opinion that the Indemnitor's interests are not in conflict with its own, the Indemnitee shall make available to the Indemnitor all information in its possession or to which it has access, other than information that has been designated as confidential by the provider of such information, which is or may be relevant to that portion of the Claim in respect of which the Indemnitor has an obligation to indemnify the Indemnitee and consult with the Indemnitor in respect thereof.

The Indemnitee shall not make any admission of the liability regarding, or settle or compromise, that portion of the Claim in respect of which the Indemnitor has acknowledged its obligation to indemnify the Indemnitee

without the written consent of the Indemnitor, which consent shall not be unreasonably withheld.

- (d) The provisions of Article 16.1(a) hereof shall not apply in respect of any Claim to which the Indemnitor is, or may reasonably be expected to be, a party and where the Indemnitee is asserting legal defenses in relation to the Claim that conflict with legal defenses being asserted by the Indemnitor.
- (e) Except to the extent to which either party is required to indemnify the other party (and those other persons specified in this Article 16) by the express terms of Article 16, neither party, nor its directors, officers, agents, employees, and representatives, will be liable to the other party for any damages, costs, expenses, injuries, losses, or liabilities suffered or incurred by the other party, its directors, officers, employees, agents and representatives howsoever and whenever caused, and each party, for itself and as agent for its directors, officers, agents, employees and representatives hereby forever releases the other party, its directors, officers, agents, employees and representatives from any liability or obligation in respect thereof. For greater certainty, neither party shall be limited in a claim against the other for specific performance or other equitable relief in relation thereto, or direct damages only and related costs and expenses (including reasonable legal fees), arising from a breach of these Terms and Conditions.

16.2 Consequential Loss

Notwithstanding anything to the contrary contained in these Terms and Conditions, neither party will be liable to the other party, and the Company shall not be liable to the Customer with respect to matters for which the party is acting as agent for the Customer, for any damage, cost, expense, injury, loss or other liability of an indirect, special or consequential nature suffered by the other party or claimed by any third party against the other party which arises due to such party's failure to perform its obligations under these Terms and Conditions or for any other reason (including negligence on its part or on the part of any person for whose acts it is responsible), howsoever and whensoever caused, and whether arising in contract, negligence or other tort liability, strict liability or otherwise; and without

limiting the generality of the foregoing, damage, injury or loss of an indirect or consequential nature shall include loss of revenue, loss of profits, loss of production, loss of earnings, loss of contract, cost of purchased or replacement capacity and energy, cost of capital and loss of the use of any segment of the Gas Pipeline System or property owned, operated, leased or used by the other party.

16.3 Release

Subject to Section 16.1 and 16.2, none of the Company, its directors, officers, agents, employees and representatives, (“Company Parties”), will be liable to the Customer, its directors, officers, agents, employees and representatives (“Customer Parties”) for any damages, costs, expenses, injuries, losses, or liabilities suffered or incurred by the Customer Parties or any of them, howsoever and whenever caused, and each Customer Party hereby forever releases each of the Company Parties from any liability or obligation in respect thereof.

16.4 The Company Not Liable to Customer

For greater certainty, the Company shall not be liable to a Customer Party for any damages of any kind:

- a) caused by or arising from any of the Company Party’s conduct in compliance with or in breach of, or as permitted by, these Terms and Conditions, the Customer Terms and Conditions for Gas Distribution Service, Natural Gas Service Agreement or other agreement with the Customer, or any contractual, legal or regulatory requirements related to service provided to Retailers;
- b) caused to the Customer and arising from any failure of a Retailer to comply with these Terms and Conditions, any agreement with the Company relating to Gas Distribution Services or for any damages caused by or arising from equipment installed or actions taken by a Retailer;
- c) caused by or arising from a Retailer’s failure to perform any commitment to the Customer, including but not limited to the Retailer’s obligation, including its

obligation under Part 2.1 of the Act, to provide retail services including Gas Distribution Service to the Customer; or

- d) caused by or resulting from any acts, omissions or representations made by a Retailer in connection with soliciting Customers for Gas Distribution Service or performing any of the Retailer's functions in providing retail gas services to Customers.

ARTICLE 17 – FORCE MAJEURE

17.1 Force Majeure Relief

The Company or Retailer/DSP, as the case may be, is relieved of its obligations hereunder, and shall not be liable for any failure to perform any term of these Terms and Conditions to the extent that and when such failure is due to, or is a consequence of, any event of Force Majeure.

Retailer/DSP shall not be relieved by Force Majeure as described in this Article 17 from the obligation to pay the charges set forth pursuant to this Article unless Force Majeure has been invoked by the Company.

17.2 Exclusions

Notwithstanding the definition of Force Majeure, lack of funds shall not be an event of Force Majeure.

17.3 Notice

The party claiming relief from liability under the provisions of this Article 17 shall promptly give the other party notice of the Force Majeure including full particulars thereof and shall promptly give the other party notice when the Force Majeure event ceases to prevent performance pursuant to these Terms and Conditions.



17.4 Obligation to Remedy

The party claiming relief from liability under the provisions of this Article 17 shall promptly remedy the cause and effect of the Force Majeure insofar as it is reasonably able to do so.

17.5 Strikes and Lockouts

Notwithstanding any other provision of these Terms and Conditions the settlement of any strike, lockout or other industrial disturbance shall be wholly in the discretion of the party claiming relief from liability and such party may settle such strike, lockout or industrial disturbance at such time and on such terms and conditions as it may deem appropriate and no failure or delay in settling such strike, lockout or industrial disturbance shall constitute a cause or event within the control of such party or deprive such party of the benefits of this Article 17.

ARTICLE 18 – DISPUTE RESOLUTION

18.1 Resolution by Company and Retailer/DSP

If any dispute between the Company and a Retailer/DSP arises at any time in connection with these Terms and Conditions, the Company and the Retailer/DSP acting reasonably and in good faith, shall use all reasonable efforts to resolve the dispute as soon as possible in an amicable manner.

18.2 Resolution by Arbitration

If any dispute has not been resolved pursuant to Article 18.1 hereof within thirty (30) days after notice from the Company or the Retailer/DSP to the other of its desire to have the dispute resolved, then the dispute shall be resolved pursuant to Articles 18.3 to 18.11 hereof. The Company and the Retailer/DSP shall abide by the terms of any award rendered by the arbitrator(s) appointed hereunder without delay.

18.3 Arbitrators

All disputes or differences between the Company and a Retailer/DSP in connection with these Terms and Conditions shall be referred (unless the Company and the Retailer/DSP concur in the appointment of a single arbitrator) to a board of arbitrators consisting of one (1) arbitrator to be appointed by each of the Company and the Retailer/DSP who shall, by instrument in writing, appoint a third arbitrator immediately after they are themselves appointed. Notwithstanding the foregoing, any disputed matters between the Company and a Retailer/DSP relating to an order or direction made or approved by the AUC or falling within the exclusive jurisdiction of the AUC, shall be referred to the AUC for resolution.

18.4 Failure to Concur

The Company and a Retailer/DSP shall be deemed to have failed to concur in the appointment of a single arbitrator if such an arbitrator shall not have been appointed within fifteen (15) days after the serving by either the Company or the Retailer/DSP on the other of notice requesting it to concur in the appointment of such an arbitrator.

18.5 Refusal to Appoint an Arbitrator

If either the Company or the Retailer/DSP shall neglect or refuse to appoint an arbitrator within fifteen (15) days after the other party (provided such other party has appointed its arbitrator) has served the Company or the Retailer/DSP, as the case may be, with notice to make the appointment, the party who has appointed its arbitrator shall be entitled to apply, upon notice to the other party, to a Justice of the Court of Queen's Bench of Alberta to appoint an arbitrator for the party in default.

18.6 Failure to Appoint a Third Arbitrator

If the arbitrators appointed by the Company and the Retailer/DSP have not, within fifteen (15) days after their appointment or the appointment of the arbitrator last appointed, as the case may be, appointed a third arbitrator, either the Company or the Retailer/DSP

shall be entitled to apply upon notice to the other party to a Justice of the Court of Queen's Bench of Alberta to appoint such an arbitrator.

18.7 Technical Competence

Any arbitrator appointed under the provisions of this Article whether by concurrence of the Company and the Retailer/DSP, by either party, by the arbitrators, or by a Justice of the Court of Queen's Bench of Alberta shall, in the opinion of the persons making such appointment, be possessed of such technical or other qualifications as may be reasonably necessary to enable him to properly adjudicate upon the dispute or difference.

18.8 Compensation of Arbitrators

Each party shall be responsible for the costs of the arbitrator appointed by it hereunder. The costs of the third arbitrator shall be divided evenly between the parties.

18.9 Application of the Arbitration Act (Alberta)

Except as herein modified, the provisions of the *Arbitration Act, R.S.A., 2000, c. A-43*, as amended from time to time, shall apply to any arbitration proceeding.

18.10 Decisions Binding

A decision of the single arbitrator or the majority of the three arbitrators named or appointed shall be final and binding upon each of the parties to the dispute or difference.

18.11 Continuity of Service

All performance required under these Terms and Conditions by the Company and the Retailer/DSP and payment therefore shall continue during the dispute resolution proceedings contemplated by this Article 18, provided that in the case of any such proceedings pertaining to amounts payable under these Terms and Conditions, any payments or reimbursements required as a result of the proceedings shall be effective as of a date to be determined in such proceedings and interest shall be paid thereon by the

party required to make the payment or reimbursement on the amount thereof at the rate specified from time to time in the Residential Tenancies Act, S.A. 2004, C.R-17.1.

ARTICLE 19 – MISCELLANEOUS

19.1 Transmission System Owner Requirements

Retailers and Customers acknowledge and agree that the Company is bound by all operating instructions, policies and procedures of Transmission System owners. Each Retailer and Customer acknowledges and agrees that they will cooperate with the Company so that the Company will be in compliance with all such operating instructions, policies and procedures which include, but are not limited to, those operating instructions, policies and procedures pertaining to emergencies, and supply reductions or full interruption of customer load by either manual or automatic means.

19.2 Compliance with Applicable Legal Authorities

The Company, DSP and the Retailer are subject to, and shall comply with, all existing or future applicable federal, provincial and local laws, all existing or future orders or other actions of governmental authorities having applicable jurisdiction. The Company will not violate, directly or indirectly, or become a party to a violation of any requirement of any applicable federal, provincial or local statute, regulation, bylaw, rule or order in order to provide Distribution Access Service to the Retailer/DSP (or a Customer of the Retailer/DSP). The Company's obligation to provide Distribution Access Service is subject to the condition that all requisite governmental and regulatory approvals for the provision of such Distribution Access Service will have been obtained and will be maintained in force during such period of Distribution Access Service.

19.3 No Assignment

Neither the Company nor the Retailer/DSP shall assign any of its rights or obligations under these Terms and Conditions or the Distribution Access Service Agreement without obtaining (a) any necessary regulatory approval(s); and (b) the prior written consent of the non-assigning party, which consent shall not be unreasonably withheld. No assignment

shall relieve the assigning party of any of its obligations under these Terms and Conditions or the Distribution Access Service Agreement until such obligations have been assumed by the assignee. Any assignment in violation of this Article shall be void. However, the Company may assign any or all of its rights and obligations under these Terms and Conditions and the Distribution Access Service Agreement, without the Retailer's/DSP's consent, to any entity succeeding to all or substantially all of the assets of the Company, if the assignee agrees, in writing, to be bound by all of the Terms and Conditions hereof and if any necessary regulatory approvals are obtained.

19.4 No Waiver

The failure of either party to insist on strict performance of any provisions of these Terms and Conditions or a Distribution Access Service Agreement, or to take advantage of any of its rights hereunder, shall not be construed as a waiver of any such provisions or the relinquishment of any such right or any other right hereunder, which shall remain in full force and effect. No term or condition of these Terms and Conditions or a Distribution Access Service Agreement shall be deemed to have been waived and no breach excused unless such waiver or consent to excuse is in writing and signed by the party claimed to have waived or consented to excuse.

19.5 Law

These Terms and Conditions and the Distribution Access Service Agreement between the Company and the Retailer/DSP shall be governed by the laws of the Province of Alberta and the federal laws of Canada applicable in the Province of Alberta, without regard to principles of conflicts of law. Any lawsuit arising in connection with these Terms and Conditions and the Distribution Access Service Agreement shall be brought in the courts of the Province of Alberta.

19.6 Invalidity of Contractual Provisions

If any provision of the Terms and Conditions or any other agreement with the Company is to any extent held invalid or unenforceable, the remainder of the Terms and Conditions or the agreement, as the case may be, and the application thereof, other than those provisions which have been held invalid or unenforceable, shall not be



Effective: April 1, 2021
Previously Effective: January 1, 2021

affected and shall continue in full force and effect and shall be enforceable to the fullest extent permitted by law or in equity.

ARTICLE 20 – NOTICE

Unless otherwise stated herein, all notices, demands or requests required or permitted under these Terms and Conditions or a Distribution Access Service Agreement shall be in writing and shall be personally delivered or sent by courier-service or electronic mail addressed as follows:

(a) If to the Retailer/DSP, to the address and the addressee set out in the Distribution Access Service Agreement between the Retailer/DSP and the Company.

(b) If to the Company to: ATCO Gas
10035 - 105 Street, Edmonton, Alberta, T5J 1C8
Attention: Manager, Customer Care and Billing
Email: RetailerContact@atcogas.com

Notice received after the close of the Business Day shall be deemed received on the next Business Day.



SCHEDULE A – DISTRIBUTION ACCESS SERVICE AGREEMENT

MEMORANDUM OF AGREEMENT made the (day) of (month), (year)

BETWEEN: **(RETAILER/DSP NAME)**

Operating As: **(RETAILER/DSP OPERATING AS BUSINESS NAME)**

(address)

(hereinafter called the "Retailer"/"DSP")

- and -

ATCO Gas and Pipelines LTD., a body corporate with its Head Office in the City of Edmonton in the Province of Alberta ("ATCO Gas" or "Company")

WHEREAS the Retailer/DSP has requested the Company to provide the Retailer/DSP with Distribution Access Service for the purpose of serving its Gas customer(s) ("the Customer"):

The Retailer/DSP and the Company agree as follows:

1. The Retailer/DSP is solely responsible for the provision of accurate and timely Customer Information to the Company. The Retailer/DSP agrees to provide the following information by electronic form to the Company, and represents and warrants that such information is true and accurate:
 - (a) Retailer Identification No(s): Refer to Appendix A
 - (b) Customer Information, in a form acceptable to the Company, for each Customer of the Retailer/DSP.

Should any of the Customer Information change during the term of this Distribution Access Service Agreement, the Retailer/DSP shall advise the Company of the change, by electronic means as soon as is reasonably practicable in the circumstance, and in any event within (5) Business Days of the Retailer becoming aware of the change. The company reserves the right to request the Retailer/DSP provide Customer Information update.

2. This Distribution Access Service Agreement is subject to the Company's Retailer Terms and Conditions for Gas Distribution Service ("Terms and Conditions"), as amended from time to time, which are approved by the Alberta Utilities Commission ("AUC").
3. The Retailer/DSP acknowledges that it has been offered a copy of the Company's Terms and Conditions, has reviewed and understands these Terms and Conditions and agrees to be bound by them, and any amendments thereto, in all transactions with the Company or its Customers.
4. No person, whether an employee or agent of the Company or otherwise, can agree to change, alter, vary or waive any provision of the Terms and Conditions without the express approval of the AUC.
5. The Retailer/DSP acknowledges that it has been offered a copy of the Company's Retailer Guide and is aware of the policies and business practices of the Company detailed therein.
6. This Distribution Access Service Agreement shall be effective on the date first noted herein, and thereafter shall remain in effect until terminated by either party in accordance with Article 9 or Article 11, as applicable, of the Terms and Conditions; or for the reasons set out in Article 14 of the Terms and Conditions.
7. The Retailer/DSP understands and agrees that the Distribution Access Service provided hereunder is provided solely for the Retailer's/DSP's use at the locations and for the Customers identified to the Company in accordance with paragraph 1 hereof. The Retailer/DSP shall not use the Distribution Access Service provided by the Company for any other purpose.



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8. If the Retailer/DSP, at any time, becomes aware that any Customer is using the service(s) provided by the Retailer/DSP or the Company in a manner which is inconsistent with the Terms and Conditions, which could potentially create safety, health or environment concerns or damage the Company's Distribution System or Gas Pipeline System, the Retailer/DSP shall immediately notify Company of such circumstances.
 9. In providing service to its Customer, the Retailer/DSP shall not, in any way, damage or interfere with or otherwise disturb, alter or tamper with the Gas Pipeline System of the Company. The Retailer/DSP shall notify the Company immediately of any problem or defect relating to Company's Gas Pipeline System, which is discovered by or brought to the attention of the Retailer/DSP.
 10. The Retailer/DSP agrees to pay all rates, charges, invoices or fees levied or billed to it by the Company in accordance with Article 7 of the Terms and Conditions.
 11. The Retailer/DSP acknowledges, understands and agrees that the Company will not perform any billing or collection activities on its behalf. The Retailer/DSP agrees to pay all amounts due and owing to the Company in accordance with Article 7 of the Terms and Conditions, regardless of any billing or collection disputes the Retailer/DSP may have with its Customer(s).
 12.
 - (a) The Retailer agrees to comply with the Company's prudential requirements established pursuant to Article 11 of the Terms and Conditions for purposes of enabling the Company to assess the Retailer's credit risk and required security.
 - (b) The Company shall be entitled to access the financial security provided by the Retailer/DSP in any event of default including late payment or default on any invoices or bills of the Company, in accordance with Articles 7, 11 and 14 of the Terms and Conditions.
 13. This Distribution Access Service Agreement is subject to all applicable legislation, including the *Gas Utilities Act, R.S.A. 2000, c.G-5*, as amended from time to time, and the Regulations made thereunder, and all applicable orders, rulings, regulations and decisions

of the AUC or any other regulatory authority having jurisdiction over the Company or the matters addressed herein.

14. This Distribution Access Service Agreement shall enure to the benefit of and be binding and enforceable by the parties hereto and their respective executors, administrators, successors and, where permitted, assigns.
15. If any provision of this Distribution Access Service Agreement, or the application thereof, is to any extent held invalid or unenforceable, the remainder of this Distribution Access Service Agreement and the application thereof, other than those provisions which have been held invalid or unenforceable, shall not be affected and shall continue in full force and effect and shall be enforceable to the fullest extent permitted by law or in equity.
16. Neither Party may disclose any Confidential Information obtained pursuant to this Distribution Access Service Agreement to any third Party, without the express prior written consent of the other Party. As used herein, the term "Confidential Information" shall include all business, financial, and commercial information pertaining to the Parties, Customers of either Party, suppliers for either Party, personnel of either Party, any trade secrets and other information of a similar nature, whether written or otherwise that is marked "proprietary" or "confidential" with the appropriate owner's name.

Notwithstanding the preceding, a receiving Party may disclose Confidential Information to any governmental, judicial or regulatory authority requiring such Confidential Information pursuant to any applicable law, regulation, ruling or order, providing that:

- (a) such Confidential Information is submitted under the applicable provision, if any, for confidential treatment by such governmental, judicial or regulatory authority; and
- (b) prior to such disclosure, the other Party is given prompt notice of the disclosure requirement so that it may take whatever action it deems appropriate, including intervention in any proceeding and the seeking of any injunction to prohibit such disclosure.



Effective: April 1, 2021
Previously Effective: January 1, 2021

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17. All notices required hereunder shall be in writing and may be given personally, by facsimile or prepaid registered mail addressed to the party for which the notice is intended to its address designated hereunder or to such other address as may be substituted therefore from time to time.

The Retailer's address for notice is:

Retailer Name

Retailer Operating As Business Name

Retailer Address

The Corporation's address for notice is:

ATCO Gas and Pipelines Ltd

10035 – 105 Street

P.O. Box 2426

Edmonton, Alberta, T5J 2V6

Attention:

Facsimile:

Attention: Manager, Customer Care and Billing

Email: RetailerContact@atco.com



Effective: April 1, 2021
Previously Effective: January 1, 2021

APPENDIX "A"

MEMORANDUM OF AGREEMENT made the (day) of (month), (year)

APPENDIX "A" to the Retail Service Agreement between **<RETAILER NAME>** and **ATCO Gas**.

RETAILER IDENTIFICATION NUMBERS

The following Retailer Identification numbers have been assigned to the Retailer noted above as of the effective date noted herein:

- (1)
- (2)
- (3)

The Retailer must notify the Company as promptly as reasonably practical of any additions or changes to the Retailer Identification Numbers. This Appendix "A" supersedes the Appendix "A" made the (day) of (month), (year).

IN WITNESS WHEREOF the Parties have executed this Agreement as of the day first above mentioned.

[RETAILER/DSP NAME]
[RETAILER/DSP OPERATING AS BUSINESS NAME]

ATCO Gas and Pipelines LTD.

Per: _____
Name: _____
Title: _____

Per: _____
Name: _____
Title: _____

ATCO Gas and Pipelines LTD.

Per: _____
Name: _____
Title: _____



SCHEDULE B – DE-ENERGIZE CUSTOMER SITE

The Company's policy (as approved in these Terms and Conditions) with respect to de-energizing Customers is set out below and applies to all Retailers/DSP issuing the transaction as stated in AUC Rule 028.

1. Where a Retailer/DSP requests the Company de-energize a Customer, the Retailer/DSP shall provide to the Company any required updated Customer Information and, for de-energizations for non-payment, the proof of payment amount the Retailer/DSP will accept in the event the Customer provides ability of payment, the date the Customer was provided written notice and a direct phone number to the Retailer's/DSP's collection department for circumstances when the Customer is required to contact the Retailer/DSP immediately to resolve payment issues. For seasonal or vacant de-energizations, the Retailer/DSP shall provide the initial date of vacancy. The Company will not assume any billing or collection obligations or responsibilities for or on behalf of the Retailer/DSP.
2. De-energizations by the Company or at the request of the Retailer/DSP will commence for residential and commercial residential property sites on April 15th of each year. Residential and commercial residential, including multi-family, property sites will not be de-energized during the winter season defined as November 1st to April 14th, or between April 15th and October 31st when the overnight local temperature is forecast to drop below zero (0) degrees Celsius in the 24 hour period immediately following the proposed de-energization. For customer-requested de-energizations at residential sites, the Retailer/DSP must also provide notification from the property owner that he/she accepts full responsibility for protecting the property against damage that may be caused by the ending of gas service and that ATCO Gas will not be held liable for any damage or loss. The Retailer/DSP will forward a copy of the property owner's written request to the Company as well as the required transaction before the Company will schedule field work.
3. De-energization activity will be completed during regular business hours on weekdays of Monday, Tuesday, Wednesday and Thursday. No de-energization activity will be



scheduled on Friday, Saturday and Sunday or any statutory holiday or any day prior to a statutory holiday observed in the service area.

4. The Company may, upon visiting the Site, delay the de-energization. Reasons for delay include, but are not limited to:
 - (a) Customer Information does not match Customer Information provided by the Retailer/DSP.
 - (b) Customer has proof of payment in hand at site in the amount as specified in Part 1 of this Schedule B.
 - (c) Immediate danger may exist to the occupants or the Company's representatives.
 - (d) De-energizing the service will adversely affect other Customers who are not to have their service de-energized.
 - (e) Where meters are located inside or on another Customer's property and access to the meter cannot be obtained. These situations will require additional distribution requirements including construction arrangements to de-energize elsewhere on the service line.

SCHEDULE C – IMBALANCE PURCHASE/SALE CHARGES**1.0 Imbalance Window Percentage**

The daily Imbalance Window percentage applicable to each Retailer/DSP Account is $\pm 5\%$. In the event that the Imbalance Window needs to be decreased the Company will change the daily Imbalance Window percentage application to Retailer/DSP Accounts as described in the Retailer Guide. Notification would be provide to Retailers by 12 hours (12:00) for changes effective the following Gas Day.

2.0 Minimum Energy Imbalance Window

Unless specified under Article 4.0 of this Schedule, the daily minimum energy Imbalance Window applicable to each Retailer/DSP Account for each Day is:

- (a) When the daily Backcast is less than or equal to 5,000 GJ the daily minimum energy Imbalance Window quantity shall be ± 500 GJ;
- (b) When the daily Backcast is greater than 5,000 GJ the daily minimum energy Imbalance Window quantity shall be $\pm 1,000$ GJ.

3.0 Imbalance Purchase/Sale Price

The Imbalance Purchase/Sale price applicable to each Retailer/DSP Account is:

- (a) For Imbalance Purchase, the price used by the Company will be the lowest Same Day Market or Yesterday Market trade price that occurs on the ICE NGX for the Gas Day as reported by the ICE NGX as the “ICE NGX AB-NIT Same Day Index” and “ICE NGX AB-NIT Yesterday Index” obtained from the “ICE NGX Price Indices” webpage <https://www.theice.com/marketdata/reports/254>
- (b) For Imbalance Sale, the price used by the Company will be the highest Same Day Market or Yesterday Market trade price that occurs on the ICE NGX for the Gas Day as reported by the ICE NGX as the “ICE NGX AB-NIT Same Day Index “ and “ICE NGX AB-NIT Yesterday Index” obtained from the “ICE NGX Price Indices” webpage <https://www.theice.com/marketdata/reports/254>