

GDAR SERVICE AGREEMENT SCHEDULE

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BACKGROUND

WHEREAS the Gas Vendor provides or wishes to provide gas supply services to consumers in the franchise area of the Gas Distributor.

AND WHEREAS the Gas Distributor is required by Chapter 3 of the Gas Distribution Access Rule to enter into a Service Agreement with each vendor who provides or wishes to provide gas supply services to consumers in the franchise area of the Gas Distributor.

NOW THEREFORE for and in consideration of the covenants and conditions hereinafter set forth, and other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), the Parties mutually agree as follows:

ARTICLE 1 **INTERPRETATION**

1.1 **Definitions**

Unless otherwise defined in this Agreement, words and phrases shall have the meaning ascribed to them in the *Ontario Energy Board Act, 1998, S.O. 1998, c. 15, Schedule B*, or the Gas Distribution Access Rule, as the case may be. In this Agreement, unless the context otherwise requires:

“**Act**” means the *Ontario Energy Board Act, 1998, S.O. 1998, c.15, Schedule B*;

“**Agreement**” means this agreement, and all exhibits and appendices referenced herein and attached hereto;

“**Applicable Laws**” means any and all applicable laws, statutes, by-laws, rules, regulations, orders and ordinances together with all codes, guidelines, policies, notices, direction, directives and standards of any Governmental Authority which are legally mandatory in nature, affecting the obligations of either of the Parties;

“**applicant**” has the meaning given to it in section 6.3;

“**bill-ready**” means a form of gas distributor-consolidated billing where the Gas Vendor provides to the Gas Distributor the calculated dollar amount for the gas commodity charges payable by the customer;

“**Billing Period**” in respect of a customer means each consecutive period of approximately one month established by the Gas Distributor for such customer in accordance with the Gas Distributor’s customary billing procedures;

“**Board**” means the Ontario Energy Board;

“**business day**” means any day that is not a Saturday, Sunday or statutory holiday as defined in the Province of Ontario;

“Claim” means any claim, demand, liability, damage, loss, suit, dispute, civil or criminal litigation, action or cause of action, arbitration, or legal, administrative or other proceeding or governmental investigation, including appeals and applications for review and all costs and expenses relating thereto;

“Collection Fee” has the meaning given to it in Appendix B;

“Confidential Information” in relation to a Party means all confidential information concerning the business, operations, financing and affairs of that Party, including without limiting the generality of the foregoing, the following:

- (a) all trade secrets and know-how of the Party;
- (b) all information relating to the Party or to any person with which the Party does business, including the credit history and consumption information pertaining to a customer of a Party;
- (c) the Party’s customer list and records;
- (d) the Party’s marketing, pricing and sales policies, techniques and concepts;
- (e) the habits and preferences of the Party’s customers and prospective customers; and
- (f) the Party’s financial records,

and, in the case of the Gas Vendor, includes Gas Vendor information to the extent that it is confidential information as described above;

“consumer” means a person who uses gas for that person’s own consumption;

“consumer information” means, in respect of a Gas Distributor, the data and/or information collected and maintained by the Gas Distributor pursuant to section 5.1 of the Rule and, in respect of a Gas Vendor, means the data and/or information about a consumer collected and maintained by the Gas Vendor;

“Defaulting Party” has the meaning given to it in section 2.6.2;

“Delivered Volume” means the volume of gas (less any Fuel Gas) delivered during a calendar month to the Gas Distributor pursuant to an agreement between the Gas Distributor and the Gas Vendor for the delivery of gas;

“Effective Date” has the meaning given to it in section 2.4;

“Enrol Request” means an STR for a change of gas supply for a consumer from system gas to the Gas Vendor or from a gas vendor to the Gas Vendor;

“EBT” means Electronic Business Transaction;

“franchise area” means the area of the Province of Ontario either for which the Gas Distributor holds a Certificate of Public Convenience and Necessity granted by the Board, or in which the Gas Distributor was supplying gas on April 1, 1933;

“Fuel Gas” means in respect of any gas to be delivered by a customer to the Gas Distributor, the fuel ratio (expressed as a percentage of the volume of such gas) in effect from time to time for gas transportation service, as established by the relevant Gas Transporter;

“gas distribution services” means the services related to the delivery of gas to a consumer, including related safety functions such as emergency leak response, line locates, inspection, and provision of safety information;

“gas distribution system” means a system used to provide gas distribution services;

“gas distributor-consolidated billing” means a method of billing whereby the Gas Distributor issues a single bill to a consumer setting out the charges for gas distribution services and the charges for the gas commodity;

“Gas Transporter” means a person, other than the Gas Distributor, with which the Gas Distributor or a customer (or the Gas Vendor on a customer’s behalf) has contracted to transport gas from or to any point of acceptance;

“gas vendor-consolidated billing” means a method of billing whereby the Gas Vendor issues a single bill to a consumer setting out the charges for gas distribution services and the charges for the gas commodity;

“Gas Vendor information” means data and/or information provided by the Gas Vendor to the Gas Distributor concerning the Gas Vendor;

“Governmental Authority” means any government, regulatory body or authority, agency, crown corporation, governmental department, board, commission, tribunal, court or other law, rule, or regulation making authority having or purporting to have jurisdiction or control on behalf of Canada or any provincial, regional or local government, or other subdivision thereof;

“Incorporated Agreements” has the meaning given to it in section 2.1.4;

“Indemnifying Party” has the meaning given to it in section 7.2;

“Invoice” has the meaning given to it in Appendix B;

“Invoice Amount” has the meaning given to it in Appendix B;

“licence” means a licence issued by the Board;

“meter” means a device owned or controlled by the Gas Distributor and used to measure the units of gas consumption which form the basis for billing the consumer;

“**Monthly Volume**” in respect of a customer for a Billing Period means the volume of gas (expressed in cubic metres) delivered by the Gas Distributor to such customer during such Billing Period;

“**person**” means an individual, partnership, corporation, association, or other incorporated or unincorporated organization or legal entity;

“**price**” means the amount (expressed in cents per cubic metre) specified by the Gas Vendor in an STR in respect of, and applicable to, a customer, and which the Gas Vendor has associated with such customer;

“**rate-ready**” means a form of gas distributor-consolidated billing where the Gas Vendor provides to the Gas Distributor price information sufficient for the Gas Distributor to calculate the gas commodity charges payable by the customer;

“**Rule**” means the “Gas Distribution Access Rule” made by the Board;

“**Service Transaction Request**” or “**STR**” means a direction to the Gas Distributor as contemplated in Article 4 of the Rule or in the EBT standards and related requirements set out in Appendix D;

“**split billing**” means a method of billing whereby the Gas Distributor issues a bill to a consumer setting out the charges for gas distribution services, and the Gas Vendor issues a bill to a consumer setting out the charges for the gas commodity;

“**system gas**” means gas which is sold or available to be sold by the Gas Distributor to a consumer; and

“**Terminating Party**” has the meaning given to it in section 2.6.2.

1.2 Sections and Headings

The division of this Agreement into Articles, sections and other subdivisions and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement.

1.3 Number

Words importing the singular include the plural and vice versa.

1.4 Gas Supply Services

The provision of gas supply services includes the sending or receipt of STRs by a Gas Vendor in order to have access to or to provide consumer information.

1.5 Other Charges and Meaning of Split Billing

1.5.1 A bill issued by a Gas Distributor under gas distributor-consolidated billing or split billing shall, where applicable, include charges for gas transportation and/or gas storage in addition to charges for gas distribution services and charges for the gas commodity, and the terms “bill-ready” and “rate-ready” shall be interpreted accordingly.

1.5.2 A bill issued by a Gas Vendor under gas vendor-consolidated billing or split billing shall, where applicable, include charges for gas transportation and/or gas storage in addition to charges for gas distribution services and charges for the gas commodity.

1.5.3 For purposes of this Agreement, split billing shall not include a method of billing whereby the Gas Distributor issues a bill to a consumer setting out the charges for gas distribution services (and where applicable other charges referred to in section 1.5.1) and the Gas Vendor issues a bill to a consumer setting out the charges for the gas commodity (and where applicable other charges referred to in section 1.5.2) in circumstances where the Gas Vendor does not require consumer consumption information from the Gas Distributor for billing purposes. Without limiting the generality of the foregoing, in such cases nothing shall require the Parties to negotiate amendments to this Agreement under sections 4.1.3(a) or 4.1.4(a) to give effect to or allow that form of billing.

1.6 Appendices

All appendices referenced in this Agreement and attached hereto shall be considered part of this Agreement and incorporated herein.

1.7 Substitution of Agreement

If, and to the extent that, the Gas Distributor and the Gas Vendor have prior to the date hereof entered into a service agreement similar to this Agreement (the "**Prior Agreement**") for or in respect of the delivery of certain billing and collection services by the Gas Distributor, the Prior Agreement is hereby amended and restated effective as of the coming into force of this Agreement, and thereafter replaced by this Agreement. For certainty, the execution and delivery of this Agreement shall not affect any action taken, or services performed under or pursuant to, or in reliance on, the Prior Agreement.

ARTICLE 2 SCOPE AND TERM

2.1 Entire Agreement

2.1.1 This Agreement constitutes the entire agreement between the Parties with respect to the subject matter of this Agreement and cancels and supersedes any prior understanding and agreements between the Parties with respect to the same.

2.1.2 A reference to a document or a provision of a document includes any amendment or supplement to, or any replacement of, that document or that provision of that document.

2.1.3 The Gas Vendor acknowledges and agrees that the Gas Distributor is, subject to any exemption that has been granted to the Gas Distributor by the Board, bound at all times to comply with the Rule in addition to complying with the provisions of this Agreement.

2.1.4 Attached as Appendix E to this Agreement are other agreements executed between the Parties prior to the Effective Date in relation to the delivery or supply of gas to consumers (the "**Incorporated Agreements**") and which as of the Effective Date form an integral part of this Agreement. Neither Party shall enforce any provision of any Incorporated Agreement that is contrary to or

inconsistent with the Rule or any provision of the remainder of this Agreement that has been approved or required by the Board, or apply any provision of any Incorporated Agreement in a manner that is contrary to or inconsistent with the Rule or any provision of the remainder of this Agreement that has been approved or required by the Board. For certainty:

- (a) in the event of an inconsistency or conflict between a provision of an Incorporated Agreement and a provision of either the Rule or any provision of the remainder of this Agreement that has been approved or required by the Board, the provision of the Rule or of the remainder of this Agreement shall govern; and,
- (b) a provision in an Incorporated Agreement is not contrary to or inconsistent with the Rule or any provision of the remainder of this Agreement that has been approved or required by the Board simply by reason of the fact that the Rule or of the remainder of this Agreement does not expressly contemplate such provision or is silent on the matter.

2.2 Relationship of the Parties

Nothing in this Agreement shall be construed to establish a partnership, joint venture, group, pool syndicate or agency between the Parties. No provision contained herein shall be construed as authorizing or empowering either Party to assume or create any obligation or responsibility whatsoever, express or implied, on behalf, or in the name, of the other Party in any manner, or to make any representation, warranty or commitment on behalf of the other Party, except as shall be provided for herein.

2.3 Agent or Broker Only

2.3.1 Where the Gas Vendor acts or offers to act as an agent or broker only and is not selling gas to any customer, Article 3 and Appendix B do not apply.

2.3.2 Where the Gas Vendor becomes a seller of gas after the Effective Date

2.3.3 , the Gas Vendor shall immediately notify the Gas Distributor in writing, and the entirety of this Agreement shall thereafter apply to the Parties.

2.4 Term of Agreement Effective Date

The term of this Agreement shall commence on the date of execution of this Agreement by the last Party to execute this Agreement (the “Effective Date”).

2.5 Existing Customers

Nothing in this Agreement shall affect any agreements in effect for the supply of gas between the Gas Vendor and customers of the Gas Vendor prior to the Effective Date. As of the Effective Date, a successful Enrol Request STR shall be deemed to have been completed in respect of each such customer.

2.6 **Termination**

2.6.1 Mandatory Termination - This Agreement shall automatically terminate on the earlier of:

- (a) the date the Gas Vendor informs the Gas Distributor in writing that it no longer is operating as a gas vendor in the Gas Distributor's franchise area;
- (b) the date of revocation, cancellation, transfer or non-renewal of the Gas Vendor's licence, if applicable, of which the Gas Vendor shall notify the Gas Distributor in writing, if the Gas Vendor's customers are all low-volume consumers as defined in section 47 of the Act; or
- (c) the date of revocation, cancellation, transfer or non-renewal of the Gas Distributor's right to distribute gas in the subject franchise area, of which the Gas Distributor shall notify the Gas Vendor in writing.

2.6.2 Permissive Termination - A Party (the "**Terminating Party**") shall have the option to terminate this Agreement upon the occurrence of any one or more of the events listed in section 2.7.1 (an "**Event of Default**") in relation to the other Party (the "**Defaulting Party**"). Where an Event of Default has occurred, the Terminating Party may give notice to the Defaulting Party, in accordance with section 7.7, setting out the details of the Event of Default. Subject to section 2.7.3, where such notice has been given, this Agreement shall terminate:

- (a) in the case of the Event of Default referred to in section 2.7.1(c), on the date specified in the notice; or,
- (b) in the case of any other Event of Default, after 10 business days have elapsed from the giving of notice by the Terminating Party,

unless the Defaulting Party has, within that time period, rectified the Event of Default and has given notice, in accordance with section 7.7, that the Event of Default has been rectified. If the Terminating Party does not accept the actions taken by the Defaulting Party to rectify the Event of Default, either Party may seek a conclusive determination of the issue in accordance with Article 6.

2.6.3 Article 5 and Article 6 and section 7.7 survive the termination of this Agreement.

2.6.4 Termination of this Agreement shall not affect the liabilities of either Party that were incurred or arose under this Agreement prior to the time of termination, and shall be without prejudice to the right of the Terminating Party to pursue all legal and equitable remedies that may be available to it.

2.6.5 Where this Agreement terminates under section 2.6.2 as a result of an Event of Default having occurred in relation to the Gas Vendor, the Gas Distributor shall notify the Gas Vendor and the Gas Vendor's customers, and shall transfer the customers to system gas according to a procedure specified by the Gas Distributor in the notice.

2.6.6 Where this Agreement terminates under section 2.6.1(a) or 2.6.1(b), the Gas Distributor shall notify the Gas Vendor and the Gas Vendor's customers. The Gas Distributor shall transfer each such customer to system gas according to a procedure specified by the Gas Distributor in the notice unless an STR to transfer the customer to another gas vendor is then pending.

2.6.7 Where this Agreement terminates under section 2.6.1(c), the Gas Vendor shall notify its customers unless the new gas distributor for the franchise area formerly served by the Gas Distributor has provided that notification.

2.7 Events of Default

2.7.1 Any one or more of the following constitutes an Event of Default in respect of a Party:

- (a) if the Party fails to provide or maintain the financial security required by this Agreement or is in breach of any of the terms or conditions of such security;
- (b) if the Party fails to perform or observe any material obligations under this Agreement on its part to be observed and performed and such failure shall continue unremedied following notice thereof from the Terminating Party for a period of thirty days;
- (c) if the Party files a petition in bankruptcy, makes application or files a petition seeking any re-organization, arrangement, composition or similar relief under any law regarding insolvency or relief for debtors or makes an assignment for the benefit of creditors, or if a receiver or receiver and manager, trustee or similar officer is appointed for the business or property of the Party, or any part thereof, or if any involuntary petition, application or other proceeding under any bankruptcy or insolvency laws is instituted against the Party and is not stayed, otherwise enjoined or discharged within fifteen business days;
- (d) if the Party ceases carrying on business in the ordinary course, commits any act of bankruptcy under the *Bankruptcy and Insolvency Act* or is wound up;
- (e) if any execution, distress or other enforcement process, whether by court order or otherwise, which would have a material adverse effect on the financial viability of the Party becomes enforceable against any property of the Party;
- (f) in the case of the Gas Vendor, if the Gas Vendor's customers are all low-volume consumers as defined in section 47 of the Act and the Gas Vendor's licence is suspended and not reinstated within ten business days; or,
- (g) if there occurs an 'Event of Default' of the Gas Vendor, or of any of the Gas Vendor's customers, under any Incorporated Agreement (as defined in the relevant Incorporated Agreement).

2.7.2 A Party that becomes aware of the occurrence of an Event of Default in relation to itself or of circumstances that may give rise to an Event of Default in relation to itself shall promptly so notify the other Party.

2.7.3 Each of the above-noted Events of Default have been inserted for the benefit of the Terminating Party and may be waived by the Terminating Party in whole or in part at any time by notice to the Defaulting Party. The Terminating Party may extend the period for the remediation of any such Event of Default (if any) provided that the Defaulting Party is then diligently pursuing the satisfaction thereof and demonstrates to the reasonable satisfaction of the Terminating Party that the steps being taken by the Defaulting Party are likely to remedy the Event of Default within a reasonable period of time.

2.8 Approvals and Consents

Where this Agreement requires the approval or consent of a Party, such approval or consent shall not be unreasonably withheld or delayed.

ARTICLE 3 SECURITY ARRANGEMENTS

3.1 Determination of Security Requirement

The Gas Distributor may, but is not obligated to, require security from the Gas Vendor. Should the Gas Distributor determine that security is required, the security shall be governed by the requirements of this Article 3.

3.2 Allowable Forms of Security

The form of security shall be:

- (i) irrevocable letter of credit;
- (ii) cash deposit; or
- (iii) a combination of the above,

at the discretion of the Gas Vendor. A Gas Vendor may, with the consent of the Gas Distributor, provide security in a form other than a form identified above, including in the form of a parental guarantee. The Gas Distributor will review and satisfy itself as to the enforceability of all security documents in a timely manner prior to the processing of any Service Transaction Request submitted to it by the Gas Vendor.

3.3 Interest on Cash Deposits

Compound interest shall accrue monthly on security provided in the form of a cash deposit. The interest rate shall be the Prime Business Rate as published on the Bank of Canada's website less two (2) percent. The interest accrued shall be paid out at least once every 12 months, or on return or realization of the security, whichever comes first.

3.4 Determination of Amount of Security

The maximum amount of security which the Gas Distributor may require from the Gas Vendor (the "**Maximum Security Amount**") shall, subject to adjustment in accordance with section 3.5, be equal to the greater of:

- (a) the maximum forecast debit banked gas account applicable to the Gas Vendor valued at the NYMEX Dawn Basis price for the applicable 12 month period; minus,
- (b) the maximum forecast amount by which (i) the forecasted amounts collected for commodity by the Gas Distributor in respect of all customers supplied, or represented, by the Gas Vendor for the applicable 12 month period, exceed (ii) forecasted amounts remitted for commodity by the Gas Distributor to the Gas Vendor in respect of all customers supplied, or represented, by the Gas Vendor for such 12 month period; plus
- (c) an amount as determined by the Gas Distributor to represent the maximum exposure arising from the Gas Distributor’s election of remittance pattern pursuant to Appendix B, section B.6,

and which amounts shall be calculated in accordance with the methodology set out in Appendix B-1.

3.5 Reductions to the Maximum Security Amount

3.5.1 The Gas Vendor’s credit rating will be used to reduce the Maximum Security Amount under section 3.4, in accordance with *Table 1 - Credit Rating Adjustment Table*.

Table 1 – Credit Rating Adjustment Table

Credit Rating (applying Standard & Poor’s terminology)	Reduction of Maximum Security Amount
AAA- and above (or equivalent)	100%
AA-, AA, AA+ (or equivalent)	100%
A-, from A and A+ to below AA (or equivalent)	80%
from BBB and BBB+ to below A (or equivalent)	60%
BBB- (or equivalent)	25%
BB and below (or equivalent) or no credit rating	25%

3.5.2 If the Gas Vendor is only able to provide the credit rating of its parent company, the Gas Vendor shall be entitled to reduce the Maximum Security Amount in accordance with *Table 1 - Credit Rating Adjustment Table* only if the Gas Vendor has provided security in the form of a parental guarantee in the same amount as the reduced Maximum Security Amount established pursuant to section 3.5.1.

3.5.3 If the Gas Vendor, or its parent company, does not have a public credit rating, then the Gas Distributor may establish such credit rating for the Gas Vendor as the Gas Distributor may, in its sole discretion, determine is appropriate, following a review of such financial statements and other information in respect of the Gas Vendor as the Gas Distributor may consider necessary or relevant.

3.5.4 In addition to and following the application of the foregoing, the Maximum Security Amount required to be provided by the Gas Vendor shall be reduced by the lesser of either (A) the

amount of \$250,000 of security, or (B) the amount of security otherwise required to be provided by the Gas Vendor pursuant to this Agreement.

3.6 Frequency and Timing for Updating Security Arrangements

3.6.1 The Gas Distributor may review the security arrangements and recalculate the Gas Vendor's Maximum Security Amount at any time in accordance with this Agreement, but shall do so no less than once every six months. As a result of these reviews, the amount of security shall be revised upwards or downwards at any time if the Maximum Security Amount applicable to the Gas Vendor has changed, and the Gas Distributor shall notify the Gas Vendor in writing of any increase or decrease in the value of security required.

3.6.2 The Gas Vendor shall provide to the Gas Distributor any increase in the value of security required by the Gas Distributor within thirty (30) days of the Gas Distributor giving written notice to the Gas Vendor of the change in the value of required security.

3.6.3 Where the existing security is in the form of a cash deposit, the Gas Distributor shall provide to the Gas Vendor any decrease in the value of security required by the Gas Distributor, plus applicable interest, within thirty (30) days of the Gas Distributor giving written notice to the Gas Vendor of the change in the value of required security.

3.6.4 Where regardless of the Gas Vendor's Maximum Security Amount the Gas Distributor determines that all or a part of the security is no longer required, the Gas Distributor shall so notify the Gas Vendor in writing. Where the existing security is in the form of a cash deposit, the Gas Distributor shall provide to the Gas Vendor the value of the security that is no longer required, plus applicable interest, within thirty (30) days of the Gas Distributor giving written notice to the Gas Vendor of the change in the value of required security.

3.7 Use of Security

The Gas Distributor has the right to use, set-off, appropriate, apply and realize the security, or any part of it, provided to the Gas Distributor by the Gas Vendor upon there occurring an Event of Default of the Gas Vendor under this Agreement or under any Incorporated Agreement by doing any one or more of the following: (i) taking possession of the security and any cash deposits by any method permitted by law; (ii) setting off or otherwise dealing with the security and any cash deposits; (iii) drawing on letters of credit; (iv) demanding payment on guarantees; (v) exercising any and all of the rights and remedies granted pursuant to the *Personal Property Security Act* (Ontario) and any other applicable legislation, or otherwise available at law or in equity; and (vi) filing such proofs of claim and other documents as may be necessary or advisable in order to have its claim lodged in any bankruptcy, winding-up or other judicial proceedings relating to the Gas Vendor. No right, power or remedy of the Gas Distributor (whether granted herein or otherwise) shall be exclusive of or dependent on or merge in any other right, power or remedy, but all such rights, powers and remedies may from time to time be exercised independently or in combination. The Gas Vendor shall remain liable for all obligations, indebtedness and liabilities owing by it to the Gas Distributor that are outstanding following realization of all or any part of the security.

ARTICLE 4
FINANCIAL ARRANGEMENTS

4.1 **Billing Options**

4.1.1 As of the Effective Date, the Gas Distributor shall have the ability to accommodate a rate-ready form of gas distributor-consolidated billing. On and after the date on which the Gas Distributor implements the change in billing option referred to in section 4.1.3(d) or 4.1.4(d), as applicable, the Gas Distributor shall provide rate-ready and bill-ready forms of gas distributor-consolidated billing on an individual customer account basis.

4.1.2 Where the Gas Vendor chooses gas distributor-consolidated billing, the terms and conditions of billing, collection and payment shall be in accordance with Appendix B. The Gas Distributor shall bear the risk of consumer non-payment for the entire bill, including gas commodity charges.

4.1.3 Vendor-Consolidated Billing and Split Billing

- (a) Upon written request from the Gas Vendor for vendor-consolidated billing or for split billing, the Gas Distributor and the Gas Vendor shall negotiate in good faith the necessary amendments to this Agreement in respect of the requested billing option, which shall be consistent with the applicable provisions of the Rule.
- (b) Within 60 days of receipt by the Gas Distributor of the written request referred to in section 4.1.3(a), or within such longer period as the Parties may agree, the Gas Distributor shall submit to the Board for approval the proposed amendments to this Agreement referred to in that section. At a minimum, the proposed amendments shall address billing, collection, payment, security arrangements, and calculation, collection and remittance of HST and, for vendor-consolidated billing, the obligation of the Gas Vendor to include any safety information and other information required by the Board in bills to consumers.
- (c) If the Gas Distributor and the Gas Vendor cannot agree on the proposed amendments to this Agreement in respect of the requested billing option within 60 days of receipt by the Gas Distributor of the written request referred to in section 4.1.3(a), or within such longer period as the Parties may agree, the Parties shall refer the dispute to the Board for determination and the Parties shall amend this Agreement accordingly.
- (d) The Gas Distributor shall implement the change in billing option referred to in section 4.1.3(a) within the time period determined by the Board.

4.1.4 Bill-Ready Form of Gas Distributor-Consolidated Billing

- (a) Upon written request from the Gas Vendor for a bill-ready form of gas distributor-consolidated billing, the Gas Distributor and the Gas Vendor shall negotiate in good faith the necessary amendments to this Agreement, which shall be consistent with this Rule.

- (b) Within 60 days of receipt by the Gas Distributor of the written request referred to in section 4.1.4(a), or within such longer period as the parties may agree, the Gas Distributor shall submit to the Board for approval the proposed amendments to this Agreement referred to in that section. At a minimum, the proposed amendments shall address all necessary changes to the EBT standards set out in Appendix D, including provision for testing and cutover to the implementation of bill-ready distributor-consolidated billing.
- (c) If the Gas Distributor and the Gas Vendor cannot agree on the proposed amendments to this Agreement in respect of the requested billing option within 60 days of receipt by the Gas Distributor of the written request referred to in section 4.1.4(a), or within such longer period as the parties may agree, the Parties shall refer the dispute to the Board for determination and the Parties shall amend this Agreement accordingly.
- (d) The Gas Distributor shall implement the change in billing option referred to in section 4.1.4(a) within the time period determined by the Board.

4.2 Payment

The form and details of payment shall be in accordance with Appendix B and Appendix C.

4.3 Service Transaction Requests

The Gas Distributor shall process all STRs in accordance with Chapter 4 of the Rule and in accordance with the EBT standards and related requirements set out in Appendix D. The Gas Distributor shall process STRs in the order in which they are received, and in accordance with the process set out in Appendix D.

4.4 Compliance with Appendix D

The Parties shall comply with their respective obligations as set out in Appendix D.

ARTICLE 5
CONFIDENTIAL INFORMATION

5.1 Confidentiality

5.1.1 Each Party acknowledges and agrees that:

- (a) all Confidential Information of the other Party which is provided to it by or with the concurrence of the other Party or to which it becomes privy, is provided to it in confidence;
- (b) at all times it shall keep the Confidential Information of the other Party in the strictest of confidence;

- (c) it shall not, without the prior written consent of the other Party, disclose, directly or indirectly, the Confidential Information of the other Party to any other person, except as permitted or required by this Agreement or Applicable Laws;
- (d) it shall not, without the prior written consent of the other Party, use the Confidential Information of the other Party for any purpose other than to fulfil its rights and obligations under this Agreement;
- (e) it shall not use, at any time, any Confidential Information of the other Party for its own benefit or purposes or for the benefit or purposes of any other person, other than to further the rights and obligations of this Agreement; and,
- (f) it shall indemnify and save harmless the other Party from and against any and all claims occasioned or suffered by such other Party as a result of the disclosure by it of the Confidential Information of the other Party contrary to the provisions of this Article 5.

5.1.2 Without prejudice to any other rights of the Parties, each Party acknowledges and agrees that if it breaches or otherwise violates, or attempts to breach or otherwise violate, the provisions of this Article 5, the other Party will likely suffer irreparable harm and an injunction or other like remedy may be the only effective remedy to protect the other Party's rights and interests, and that an interim injunction against such breach or violation may be granted immediately on the commencement of any law suit.

5.1.3 The provisions of this Article 5 shall apply in addition to, and not in substitution for, all obligations owed by the Parties to each other at law or in equity, including, without limitation, fiduciary duties and duties of confidentiality.

5.1.4 The restrictions contained in this Article 5 shall not apply to any portion of Confidential Information which becomes generally known to the public other than through the fault or breach of confidence of the disclosing Party.

5.1.5 A Party shall consent to the disclosure of its Confidential Information to a person (including an affiliate) providing services to or on behalf of the other Party in respect of the other Party's obligations under this Agreement, provided that the other Party has confirmed in a manner satisfactory to the Party whose Confidential Information is being disclosed that such service provider is bound to comply with this Agreement and all Applicable Laws in relation to its use of Confidential Information.

5.2 Consumer Information

Each of the Parties acknowledges and agrees that its collection, use or disclosure of consumer information shall be in compliance with this Agreement and all Applicable Laws. Without limiting the generality of the foregoing, each Party shall, where and to the extent required by Applicable Laws, obtain the consent of each of its customers to the disclosure of the customer's personal information to the other Party for the purposes of this Agreement. Except when prohibited by Applicable Laws, a Party may disclose consumer information to a person (including an affiliate) providing services to or on behalf of the Party in respect of the Party's obligations under this Agreement, provided that such service provider is bound to comply with this Agreement and all Applicable Laws in relation to its use of consumer information.

5.3 Gas Vendor Information

5.3.1 The Gas Distributor shall not use or disclose any Gas Vendor information except in accordance with this Agreement or the Rule. Where the Gas Distributor requires the consent of the Gas Vendor to disclose Gas Vendor information, the Gas Distributor shall request such consent in writing, and shall provide the specific reason(s) for the request.

5.3.2 The Gas Vendor shall consent to the disclosure by the Gas Distributor of Gas Vendor information to a person (including an affiliate) providing services to or on behalf of the Gas Distributor in respect of the Gas Distributor's obligations under this Agreement, provided that the Gas Distributor has confirmed in a manner satisfactory to the Gas Vendor that such service provider is bound to comply with this Agreement and all Applicable Laws in relation to its use of Gas Vendor information.

**ARTICLE 6
DISPUTE RESOLUTION****6.1 Exclusivity**

6.1.1 Except where this Agreement states otherwise, the dispute resolution procedures set forth in this Article 6 shall apply to all disputes arising between the Gas Distributor and the Gas Vendor regarding this Agreement and shall be the only means for resolving any such disputes.

6.1.2 The dispute resolution procedures set forth in this Agreement do not apply to disputes that have not yet been referred in accordance with section 6.2.1 prior to this Agreement being terminated.

6.2 Duty to Negotiate

6.2.1 Any dispute between the Gas Distributor and the Gas Vendor regarding this Agreement shall first be referred to a designated representative chosen by the Gas Distributor and to a designated representative chosen by the Gas Vendor for resolution on an informal basis.

6.2.2 Such designated representatives shall attempt in good faith to resolve the dispute within thirty days of the date when the dispute was referred to them. The Parties may extend such period by agreement in writing.

6.2.3 Any resolution of the dispute by the designated representatives shall be in writing and shall be executed by an authorized representative of each Party. The resolution shall bind the Parties and their respective successors and assigns, and shall not, except for either Party's subsequent failure to abide by the resolution, from then on be subject to arbitration or challenge in any court or other tribunal. The Parties may not, by means of the resolution of a dispute under this section 6.2.3, agree to terms or conditions that would, if they had been the subject of an amendment to this Agreement, violate section 7.4.1.

6.2.4 If either Party refuses to honour the designated representatives' resolution as executed, the other Party may immediately commence arbitration under this Article 6 to enforce the resolution.

6.3 Referral of Unresolved Disputes

6.3.1 If the designated representatives of the Parties cannot resolve the dispute within the time period set out in section 6.2.2, either Party (the “**applicant**”) may by notice to the other Party submit the dispute to binding arbitration.

6.3.2 Except as the Parties may otherwise agree, an arbitration shall be conducted in accordance with the arbitration procedures set out below.

6.4 External Arbitration Procedures

6.4.1 Subject to section 6.5, the Parties shall submit any arbitration begun under this section to a single neutral arbitrator.

6.4.2 In choosing an arbitrator, the Parties shall negotiate in good faith. All arbitrations under this Agreement shall be conducted in accordance with the *Arbitration Act*, 1991, S.O. 1991, c.17 (the “**Arbitration Act**”), except as modified herein.

6.4.3 The arbitrator(s) shall have exclusive authority to hear and decide any dispute between the Parties that is subject to arbitration under this Agreement.

6.5 Appointment of Arbitrator

6.5.1 If the Parties cannot agree upon a single arbitrator within fifteen days after referring the dispute to arbitration, each Party shall within five more days choose one individual who shall sit on a three member arbitration panel.

6.5.2 The two arbitrators chosen by the Parties shall within twenty business days, in good faith, choose a third person to be the third arbitrator, who shall chair the arbitration panel.

6.5.3 Neither Party may at any time during the arbitration revoke its choice of arbitrator, unless the other Party consents in writing.

6.5.4 If the Parties do not choose the two arbitrators within the five day time period set out in section 6.5.1, either Party or both Parties may apply to the court to appoint a single arbitrator.

6.5.5 The individual(s) chosen as the arbitrator(s) shall be qualified by education and experience to decide the matter. The arbitrator(s) shall be at arm’s length from all Parties to the arbitration and shall not be members of the audit or legal firm or firms who advise any Party to the arbitration, nor shall the arbitrator(s) be otherwise regularly retained by any of the Parties to the arbitration.

6.6 Written Statement of Dispute and Response

6.6.1 Within twenty business days after the individual arbitrator or arbitration panel are named, the applicant shall submit to the arbitrator(s) and to the other Party, a written statement. The statement shall set out:

- (a) the nature of the dispute and the applicant's position;
- (b) the names of each Party's main contact for the arbitration process along with their addresses, phone numbers and fax numbers;
- (c) any claims for relief;
- (d) the grounds for that relief;
- (e) the proposed resolution or relief sought;
- (f) the names of any third Parties with material knowledge or information relevant to the dispute, and,
- (g) any documents that the Party wishes the arbitrator(s) to consider.

6.6.2 The responding Party shall have twenty business days to respond to the filing, setting forth its position and the information that it deems relevant, to the arbitrator(s) and to the other Party.

6.7 Discovery of Facts

6.7.1 There shall be no discovery of facts taken, sought, or otherwise instituted by any means except as approved by the arbitrator(s).

6.7.2 The arbitrator(s) shall provide a time schedule for any such discovery.

6.7.3 The arbitrator(s) may at any time retain non Party technical experts to advise and assist them during the arbitration. The advice of these experts shall be made known to the Parties.

6.8 Confidentiality of Documents

All meetings and hearings shall be in private unless the Parties to the arbitration agree otherwise. The Party providing any document or other information in the arbitration that would not otherwise be available to the other Party may in good faith designate it as confidential, provided that the Parties shall first submit to the arbitrator(s) an agreed upon written statement of procedures for handling and protecting material designated as confidential, which the arbitrator(s) may accept or modify as they may deem appropriate. If the Parties cannot agree upon confidentiality procedures, the arbitrator(s) shall decide them as appropriate.

6.9 Procedural Rules

6.9.1 The arbitrator(s) may adopt any procedural rules that they, at their sole discretion, deem appropriate to conducting the arbitration and facilitating the resolution of the dispute.

6.9.2 No procedural rule adopted by the arbitrator(s) shall extend the time period set forth in section 6.10.1.

6.9.3 Refusal by either Party to comply with an order of the arbitrator(s) adopting or modifying any procedural rule shall constitute, in the sole discretion of the arbitrator(s), grounds for default and a finding in favour of the other Party.

6.10 Decision Requirements

6.10.1 Unless the Parties agree otherwise in writing, any dispute submitted for arbitration under this Article 6 shall be finally decided by the arbitrator(s) no later than thirty days from the completion of the hearing.

6.10.2 The final decision of the arbitrator(s) shall set forth in writing their findings of fact and any conclusions of law and be based on the evidence before them, all Applicable Laws, any applicable regulatory instruments issued by the Board, this Agreement and any relevant decisions of courts, agencies, or earlier arbitrations between the Parties under this Article 6.

6.10.3 A copy of the decision, with any Confidential Information expunged, shall be made available to the public upon request.

6.11 Finality of Decisions

6.11.1 The decision of the arbitrator(s) shall be final and binding on the Parties to the arbitration and shall not be subject to any appeal or review procedure.

6.11.2 Notwithstanding anything else in this section 6.11, if either Party fails to act in accordance with the decision of the arbitrator(s), the other Party may then seek enforcement of the decision in any court of competent jurisdiction.

6.12 Arbitration Act

6.12.1 Nothing in this Agreement shall be construed as affecting the application of section 3 of the *Arbitration Act* to the Parties.

6.13 Costs

6.13.1 The arbitrator(s) shall award costs for an arbitration as if it had been a proceeding in Ontario Superior Court, and the arbitrator(s) shall therefore, in awarding or denying costs to a Party, follow the provisions on costs set out in the *Ontario Courts of Justice Act*, R.S.O. 1990, c. C.43 and the Ontario Rules of Civil Procedure, including without limitation the provisions in those rules concerning settlement offers and case law applicable in Ontario.

6.13.2 If either Party fails to comply with the decision of the arbitrator(s) and the other Party afterwards seeks relief under section 6.11, the Party seeking the relief shall be entitled to receive from the other Party its costs of seeking the relief from the other Party (including its reasonable legal costs) once a court of competent jurisdiction has issued a final, non appealable order in its favour.

ARTICLE 7
GENERAL

7.1 Authority of Gas Vendor to Act and Obligation to Provide Information

7.1.1 The Gas Vendor represents and warrants to the Gas Distributor, and acknowledges and agrees that the Gas Distributor is relying on the accuracy of such representation and warranty in entering into this Agreement, that at the Effective Date hereof and at all times during the term of this Agreement, the Gas Vendor is the duly appointed agent of each of its customers and, in such capacity, is entitled to enter into this Agreement on behalf of each such customer, to the extent applicable, and to act on behalf of each such customer for all purposes under this Agreement. For greater certainty, if applicable, the Gas Vendor represents and warrants that it has a valid and binding agreement with each of its customers for the supply of gas that specifies the price.

7.1.2 Each Party shall provide to the other Party all the necessary and correct information as may reasonably be required by the other Party to enable the other Party to fulfill its obligations under this Agreement.

7.2 Indemnity

7.2.1 Each Party (the “**Indemnifying Party**”) hereby agrees to indemnify and save the other harmless from and against all Claims, including all costs and expenses (including legal fees on a solicitor and client basis) related or incidental thereto, which may be brought against the other Party or which the other Party may suffer or incur as a result of, in respect of or arising out of,

- (a) any non-performance or non-fulfillment of any covenant or agreement on the part of the Indemnifying Party contained in this Agreement;
- (b) any misrepresentation, inaccuracy, incorrectness or breach of any representation or warranty made by the Indemnifying Party contained in this Agreement or contained in any document given pursuant to this Agreement; and,
- (c) where the Indemnifying Party is the Gas Vendor, the failure of the Indemnifying Party to satisfy its obligations to customers under an agreement between it and a customer for the supply of gas.

7.2.2 A Party shall have a duty to mitigate any Claims relating to any claim for indemnification from the other Party that may be made in relation to that other Party. Nothing in this section 7.2.2 shall require the mitigating Party to mitigate or alleviate the effects of any strike, lockout, restrictive work practice or other labour dispute.

7.2.3 A Party shall give prompt notice to the other Party of any claim with respect to which indemnification is being or may be sought under this Agreement.

7.3 Waiver

The failure of any Party to exercise any right, power or option or to enforce any remedy or to insist upon the strict compliance with the terms, conditions and covenants of this Agreement shall

not constitute a waiver of the terms, conditions and covenants herein with respect to that or any other subsequent breach thereof nor a waiver by the Party at any time thereafter to require strict compliance with all terms, conditions and covenants hereof, including the terms, conditions and covenants with respect to which the Party has failed to exercise such right, power or option. Nothing shall be construed as or have the effect of a waiver except an instrument in writing signed by a duly authorized representative of the Party which expressly or impliedly waives a right, power or option under this Agreement.

7.4 Amendments and Modifications to this Agreement

7.4.1 The Parties may by mutual agreement amend or modify any provision of this Agreement or add any provision to this Agreement, including a new appendix, provided that any such amendment or modification is not inconsistent with or contrary to any applicable licence, rule (including the Rule), order of the Board or any provision of this Agreement that has been approved or required by the Board. For greater certainty, an amendment or modification is not contrary to or inconsistent with an applicable licence, rule (including the Rule), order of the Board or provision of this Agreement that has been approved or required by the Board simply by reason of the fact that the applicable licence, rule (including the Rule), order of the Board or provision of this Agreement that has been approved or required by the Board does not expressly contemplate such amendment or modification or is silent on the matter.

7.4.2 The Board may require amendments to this Agreement.

7.4.3 The Parties agree to forthwith, upon receipt of notice from the Board, do all things and take all actions necessary to amend this Agreement as specified by the Board and, where necessary, to give retroactive effect to such amendments.

7.4.4 Notwithstanding section 7.4.1, where in an Appendix information is to be filled in or an option is to be chosen by a Party, these items may be amended by that Party by giving notice to the other Party. The amendment shall take effect when notice of the amendment is deemed to have been given and received in accordance with section 7.7.

7.5 Assignment and Change of Control

7.5.1 Neither Party to this Agreement shall assign any of its rights or obligations under this Agreement without the prior written consent of the other Party.

7.5.2 The Gas Vendor shall not permit to occur or enter into or undertake or take any steps to enter into or undertake a transaction or series of transactions which results or will result in a Change of Control, unless the Gas Vendor provides notice to the Gas Distributor of the occurrence of such Change of Control within ten (10) business days thereof. If a Change of Control occurs, the Gas Distributor shall have the right to review and recalculate the Gas Vendor's Maximum Security Amount pursuant to Article 3, and to require the Gas Vendor to provide increased security, if applicable, as contemplated therein. For these purposes, "Change of Control" shall mean: (i) an acquisition or purchase of the Gas Vendor by a third party by the sale, transfer of shares or otherwise; (ii) a proceeding taken with a view to the reconstruction of the Gas Vendor or a consolidation, amalgamation, merger, reorganization, winding up or dissolution or any other change in the ownership structure of the Gas Vendor; (iii) a liquidation of the

Gas Vendor; and/or (iv) any circumstance under which the Gas Vendor ceases to be wholly owned directly by the same shareholders as on the Effective Date.

7.6 **Severability**

7.6.1 If any provision of this Agreement or application thereof is determined by a court of competent jurisdiction to be invalid or unenforceable in whole or in part, such invalidity or unenforceability shall attach only to such provision or part thereof and the remaining part of such provision and all other provisions shall continue in full force and effect.

7.6.2 If a court of competent jurisdiction finds any restrictive covenant contained in this Agreement to be unenforceable in whole or in part, including without limitation as to duration and/or territory, the Parties shall amend this Agreement to reduce the scope of such restrictive covenant to that which is reasonable and enforceable in the circumstances.

7.7 **Notices**

Any demand, notice or other communication (“**Notice**”) to be given in connection with this Agreement shall be given in writing and shall be sufficiently given if:

- (i) delivered personally;
- (ii) sent by registered mail;
- (iii) sent by facsimile;
- (iv) delivered by courier;
- (v) delivered by other means of electronic communication,

to the contact person set out at Appendix A to this Agreement or to such other person at such other address as the Party to whom such Notice is to be given shall have advised the Party giving the same in the manner provided in this section. Any Notice delivered personally shall be deemed to have been given and received on the day it is so delivered at such address, provided that if such day is not a business day such Notice shall be deemed to have been given and received on the next following business day. Any Notice sent by registered mail shall, if mailed to and from an address in Ontario, be deemed to have been given and received on the fourth business day following the date of mailing or, if mailed to or from an address outside of Ontario, shall be deemed to have been given and received on the tenth business day following the date of mailing. Any Notice transmitted by facsimile or other electronic communication shall be deemed given and received on the day of its transmission provided that such day is a business day and such transmission is completed before 5:00 p.m. on such day, failing which such Notice shall be deemed given and received on the first business day after its transmission.

7.8 **Statutes**

Any reference to a statute in this Agreement includes a reference to all regulations made pursuant to such statute, all amendments made to such statute and regulations in force from time to time and to any statute or regulation which may be passed and which has the effect of supplementing or superseding such statute or regulations.

7.9 **Applicable Laws**

This Agreement shall be construed in accordance with the laws of Ontario including, in particular, the Act, and the laws of Canada applicable in Ontario and shall be treated in all respects as an Ontario contract. Each of the Parties irrevocably attorns to the non-exclusive jurisdiction of the courts of Ontario.

7.10 **Time**

Time shall be of the essence of this Agreement and no extension or variation of this Agreement shall operate as a waiver of this provision.

7.11 **Calculation of Time**

When calculating the period of time within which or following which any act is to be done or step taken pursuant to this Agreement, the date which is the reference date in calculating such period shall be excluded. If the last day of such period is not a business day, the period in question shall end on the next following business day.

7.12 **Further Assurances**

The Parties shall with reasonable diligence do all such things and provide all such reasonable assurances as may be required to consummate the transactions contemplated by this Agreement. Each Party shall provide and execute such further documents or instruments as may be reasonably required by any other Party, exercise its influence and do and perform or cause to be done or performed such further and other acts as may be reasonably necessary or desirable to effect the purpose of and to carry out the provisions of this Agreement.

7.13 **Binding Effect**

This Agreement shall enure to the benefit of and shall be binding upon the Parties and their respective heirs, executors, administrators, successors and permitted assigns.

APPENDIX A

Contact Information

A.1 General Contact Information

(The Gas Distributor shall fill in the blanks)

Mr. Mrs.

Miss Ms.

Last Name:	Full First Name:	Initial:
Position Held:	Alternate Contact:	
Contact Address (if R.R., give Lot, Concession No. and Township):		
City	Province	Postal Code
E-mail Address	Phone Number	Fax Number

(The Gas Vendor shall fill in the blanks)

Mr. Mrs.

Miss Ms.

Last Name:	Full First Name:	Initial:
Position Held:	Alternate Contact:	
Contact Address (if R.R., give Lot, Concession No. and Township):		
City	Province	Postal Code
E-mail Address	Phone Number	Fax Number

Each Party agrees to promptly provide notice to the other Party of any change in contact information.

A.2 Contact Information for Customer Billing Services

(The Gas Distributor shall fill in the blanks)

Mr. Mrs.

Miss Ms.

Last Name: Full First Name: Initial:

Position Held: Alternate Contact:

Contact Address (if R.R., give Lot, Concession No. and Township):

City Province Postal Code

E-mail Address Phone Number Fax Number

(The Gas Vendor shall fill in the blanks)

Mr. Mrs.

Miss Ms.

Last Name: Full First Name: Initial:

Position Held: Alternate Contact:

Contact Address (if R.R., give Lot, Concession No. and Township):

City Province Postal Code

E-mail Address Phone Number Fax Number

Each Party agrees to promptly provide notice to the other Party of any change in contact information.

A.3 Contact Information for Security Arrangements

(The Gas Distributor shall fill in the blanks)

Mr. Mrs.
Miss Ms.

Last Name:	Full First Name:	Initial:
Position Held:	Alternate Contact:	
Contact Address (if R.R., give Lot, Concession No. and Township):		
City	Province	Postal Code
E-mail Address	Phone Number	Fax Number

(The Gas Vendor shall fill in the blanks)

Mr. Mrs.
Miss Ms.

Last Name:	Full First Name:	Initial:
Position Held:	Alternate Contact:	
Contact Address (if R.R., give Lot, Concession No. and Township):		
City	Province	Postal Code
E-mail Address	Phone Number	Fax Number

Each Party agrees to promptly provide notice to the other Party of any change in contact information.

A.4 Contact Information for Remittances

(The Gas Distributor shall fill in the blanks)

Mr. Mrs.

Miss Ms.

Last Name: Full First Name: Initial:

Position Held: Alternate Contact:

Contact Address (if R.R., give Lot, Concession No. and Township):

City Province Postal Code

E-mail Address Phone Number Fax Number

(The Gas Vendor shall fill in the blanks)

Mr. Mrs.

Miss Ms.

Last Name: Full First Name: Initial:

Position Held: Alternate Contact:

Contact Address (if R.R., give Lot, Concession No. and Township):

City Province Postal Code

E-mail Address Phone Number Fax Number

Each Party agrees to promptly provide notice to the other Party of any change in contact information.

APPENDIX B

Billing, Collection and Payment

The Parties agree to the business practices for gas distributor-consolidated billing set out in this Appendix. Where the Gas Vendor requests a change in billing option from gas distributor-consolidated billing to gas vendor-consolidated billing, or from gas distributor-consolidated billing to split billing, section 4.1.3 shall apply. Where the Gas Vendor requests a change in billing option to a bill-ready form of gas distributor-consolidated billing, section 4.1.4 shall apply.

Nothing in this Appendix shall require a Gas Distributor to provide gas distributor-consolidated billing in a bill-ready form until the date on which the Gas Distributor implements the change in billing option in accordance with section 4.1.4.

B.1 Form of Billing

- (a) The Gas Distributor shall provide gas distributor-consolidated billing in a:
 - rate-ready form
 - bill-ready form
 - rate-ready form and bill-ready form on an individual customer account basis

(The Gas Vendor shall tick one or more of the boxes set out above.)

- (b) The Gas Distributor will accept the following languages from the Gas Vendor for the line item description (bill-ready only):
 - English
 - English and French
 - English and the following other language: _____

(The Gas Vendor shall tick one of the boxes set out above.)

B.2 Data Exchange

- (a) The Gas Distributor must receive all necessary information for the calculation of customer Invoices via the EBT system, in accordance with the EBT standards and other requirements set out in Appendix D.
- (b) The Gas Distributor shall include, with the first remittance statement submitted by the Gas Distributor to the Gas Vendor for monies owed to the Gas Distributor, the following information:

-
- (i) a summary of the Gas Distributor's meter reading practices by customer category;
 - (ii) a list of languages in which the Gas Distributor provides billing service;
 - (iii) a statement of the number of days following the meter reading date within which a remittance statement will be issued to the Gas Vendor with respect to those customers whose meters were read;
 - (iv) a summary of all charges that will be itemized by consumer account on the remittance statement presented by the Gas Distributor to the Gas Vendor; and,
 - (v) a summary of any charges for which the Gas Distributor will bill the Gas Vendor according to a different schedule than that described above or that will not be itemized by consumer account.
- (c) Where billing is in a bill-ready form:
- (i) The Gas Distributor shall accept one (1) line item per customer Invoice per Billing Period.
 - (ii) The Gas Distributor shall only accept up to fifty (50) characters for the Gas Vendor's line item consisting of the description. The dollar value will be in addition to this information. All spaces, including empty spaces, are considered characters. If the description exceeds the allowable length, it will be truncated to comply with the Gas Distributor's requirements. This line item must be for commodity only.
- (d) Until the date on which the Gas Distributor implements the change in billing option referred to in section 4.1.4, where billing is in a rate-ready form the Gas Distributor shall provide at least one additional bill line item to the Gas Vendor using a rate approved by the Board, if applicable:

The Gas Distributor is able to provide _____ additional bill line items.

(The Gas Distributor shall indicate the number of additional bill line items)

- (e) On and after the date on which the Gas Distributor implements the change in billing option referred to in section 4.1.4, the Gas Distributor may provide additional bill line items to the Gas Vendor using a rate approved by the Board, if applicable:
- Yes. The Gas Distributor is able to provide _____ additional bill line items.
 - No

(The Gas Distributor shall tick one of the boxes set out above, and indicate the number of additional bill line items, where applicable)

B.3 Gas Distributor Meter Read and Billing Timelines

For each customer class, the Gas Distributor shall provide the following information:

Customer Class Category	Meter Reading Frequency	Billing frequency for customers billed under system gas or gas distributor-consolidated billing	Number of days when payment is due following the billing date for customers billed under system gas or gas distributor-consolidated billing (i.e. the date the bill is produced)
Mass Market	Bi Monthly	Monthly	Per Rate Order
LVB	Bi Monthly	Monthly	Per Rate Order

The Gas Distributor shall provide detailed meter read and billing cycle schedules to the Gas Vendor for the quarterly period within 30 days of entering into this Agreement. Please refer to Enbridge website - InsideEnbridge.com - for the meter read and billing cycle schedules.

B.4 Customer Default to the Gas Distributor

Where a customer of the Gas Vendor is in default of any obligation to the Gas Distributor, the customer shall remain a customer of the Gas Vendor and the billing option may not be changed. The Gas Distributor shall notify the Gas Vendor of the customer default at the same time as a final notice of disconnection is issued to the customer.

B.5 Collection of Invoice Amount

In respect of gas delivered by the Gas Distributor to a customer of the Gas Vendor in a Billing Period, the Gas Distributor will issue a statement of account (an **"Invoice"**) to the customer in the next following Billing Period. The Invoice will show the amount payable by the customer for the purchase of gas during the Billing Period (the **"Invoice Amount"**), which shall be an amount equal to either,

- (a) the product of the customer's Monthly Volume for the Billing Period and the price applicable to such customer; or,
- (b) if an equal billing arrangement has been established between the customer and the Gas Distributor, the equal billing amount so established; or,
- (c) any bill-ready amounts, where billing is provided in a bill-ready form.

The determination of the customer's Monthly Volume for the purposes of billing may be based on estimated readings. The Invoice shall be prepared, delivered and payable in accordance with the Gas Distributor's customary billing practice. The Gas Vendor acknowledges that the Invoice will normally be a part of the Gas Distributor's regular monthly Invoice to the customer, and that such Invoice may include other amounts payable by the customer to the Gas Distributor or by the customer to a third party.

B.6 Remittance to Gas Vendor

The Gas Distributor shall remit to the Gas Vendor an amount calculated on the basis of:

- consumption of gas by the Gas Vendor’s customers.
- delivery of gas to the Gas Distributor on behalf of the Gas Vendor’s customers.

(The Gas Distributor shall tick one of the boxes set out above)

B.7 Statements to Gas Vendor

Coincident with each remittance made under section B.8, the Gas Distributor shall deliver to the Gas Vendor a statement setting out, for the relevant Billing Period:

- (a) a calculation of the amount to be remitted to the Gas Vendor by the Gas Distributor; and
- (b) such other information as the Gas Distributor may from time to time determine.

B.8 Fees

- (a) For the billing and collection services rendered by the Gas Distributor to the Gas Vendor hereunder in a Billing Period, the Gas Vendor shall pay to the Gas Distributor an amount (the “**Collection Fee**”) equal to the product of: (A) the relevant Board-approved service charge and (B) the number of Invoices issued, or deemed to be issued, by the Gas Distributor in respect of each of the Gas Vendor’s customers during the relevant Billing Period. The amount so calculated, together with all taxes payable by the Gas Vendor thereon, shall be paid by set-off against the amount to be remitted by the Gas Distributor to the Gas Vendor pursuant to section B.10.
- (b) All STR fees will be calculated on a:
 - Daily basis
 - Billing Period basis
- (c) All fixed customer charges/credits will be calculated on a:
 - Daily basis
 - Billing Period basis
- (d) All other service charges will be calculated on a:
 - Daily basis
 - Billing Period basis

(The Gas Distributor shall tick one of the boxes for each of the three statements set out above in (b) – (d))

Where a service charge is calculated on a daily basis, the remittance statement issued to the Gas Vendor shall include all charges with respect to this type of charge calculated up to the day before the remittance statement is issued. Where a service charge is calculated on a monthly basis, the remittance statement shall include all charges with respect to this type of charge calculated up to the end of the most recently completed Billing Period.

B.9 Balance Adjustments

The Gas Distributor and the Gas Vendor shall make any necessary balancing adjustments in accordance with the Gas Distributor's customary practice.

B.10 Payment Mechanism and Netting

All remittances between the Gas Distributor and the Gas Vendor shall be netted against each other on a monthly basis. Except as otherwise provided herein, remittances to be made by the Gas Distributor to the Gas Vendor or by the Gas Vendor to the Gas Distributor shall be made in accordance with Appendix C.

B.11 Taxes

Any taxes (other than the Gas Distributor's income taxes and HST or other similar taxes) and other charges which may become payable on or in respect of the Collection Fee shall be borne and paid by the Gas Vendor. The Gas Distributor shall calculate, collect and remit to Canada Customs & Revenue Agency HST on gas distribution charges only, and shall calculate, collect and remit to the Gas Vendor HST on gas commodity charges. The Gas Vendor shall remit to Canada Customs & Revenue Agency HST on gas commodity charges. The Gas Distributor shall account for the HST charged on gas commodity as the HST becomes collectible.

B.12 Interest on Overdue Amounts

- (a) By customers of the Gas Vendor- Any amount owing pursuant to an Invoice by a customer to the Gas Distributor and not paid on or before the date on which it is due shall be subject to the Gas Distributor's Board-approved late payment charges.
- (b) By Gas Distributor - Any amount to be remitted by the Gas Distributor to the Gas Vendor and not remitted on or before the date on which it is due shall thereafter bear interest at an annual rate equal to the Prime Business Rate of the Bank of Canada.

B.13 Non-Recourse Against Gas Vendor

Subject to the Gas Vendor's representations and warranties under section 7.1 of this Agreement, the Gas Distributor acknowledges that its recourse with respect to the payment of any Invoice Amounts shall be limited to making and enforcing a claim against the customer. The Gas Distributor shall have no recourse against the Gas Vendor personally with respect to the payment of any Invoice Amounts.

B.14 Gas Distributor's Set-Off Rights

Notwithstanding any other provision of this Agreement, the Gas Distributor is hereby authorized by the Gas Vendor, without demand for payment, and without any other formality, all of which are hereby waived, at any time and from time to time, to set off, appropriate and apply any and all deposits (general or special, time or demand, provisional or final, in whatever currency) or security, including any cash or other amounts, at any time held by the Gas Distributor, and any and all amounts to be remitted by the Gas Distributor to the Gas Vendor, together with any other obligations (in whatever currency) at any time owing by the Gas Distributor to or for the credit or the account of the Gas Vendor now or hereafter existing under this Agreement or any of the Incorporated Agreements, against any and all of the obligations of the Gas Vendor to the Gas Distributor now or hereafter existing under this Agreement or any of the Incorporated Agreements, irrespective of whether or not the Gas Distributor has made any demand under this Agreement or any of the Incorporated Agreements and although such obligations of the Gas Vendor may be contingent or unmatured (and for purposes of this provision, "contingent or unmatured" obligations refers only to the Gas Vendor's deficiency or surplus gas delivery obligation, if any, pursuant to any Incorporated Agreement, and the crystallization thereof as provided therein). Each of the parties hereto hereby waives, to the extent lawful, any "reasonable period" which may be imposed by a court prior to the exercise of such set-off, appropriation and application. The rights of the Gas Distributor under this section B.14 are in addition to any other rights and remedies (including other rights of setoff, consolidation of accounts and liens) that the Gas Distributor may have. The Gas Distributor agrees to promptly notify the Gas Vendor at the time of or forthwith following any such setoff and application, but the failure to give such notice shall not affect the validity of such setoff and application.

Further, and notwithstanding any other provision of this Agreement, the Gas Vendor is hereby afforded a corresponding right to set off, appropriate and apply, as that provided to the Gas Distributor above, *mutatis mutandis*.

B.15 Authority to Recover Payment

- (a) On the terms and subject to the conditions contained in this Agreement, the Gas Vendor hereby appoints the Gas Distributor as a billing agent in respect of each of the Gas Vendor's customers to render accounts to, and collect payment of the price payable by, the customer for the purchase by the customer of gas pursuant to an agreement between the customer and the Gas Vendor for the supply of gas, and the Gas Distributor hereby accepts such appointment and, in the manner provided for herein, agrees to remit to the Gas Vendor the price payable by the customer for such gas. The Gas Vendor hereby acknowledges and agrees that the Gas Distributor does not and will not assume any liabilities or other obligations of the Gas Vendor or any other person to any of the Gas Vendor's customers as a consequence of accepting this appointment.
- (b) The Gas Vendor hereby also irrevocably appoints the Gas Distributor as the Gas Vendor's lawful attorney, with full authority in the name and on behalf of the Gas Vendor, its successors and assigns, to sue for and to recover from each customer of the Gas Vendor the Invoice Amount payable under each Invoice delivered to such customer hereunder. Such authority shall be in addition to, and not in substitution for any rights

the Gas Distributor may have in law to enforce or recover payment from such customer, including the right to suspend gas deliveries.

- (c) In furtherance of the Gas Distributor's obligations to collect all Invoice Amounts of the Gas Vendor, the Gas Vendor hereby irrevocably, absolutely and unconditionally assigns, and transfers and sets over by way of a fixed and specific assignment (without recourse) to the Gas Distributor:
- (i) all present and future Invoice Amounts now due or hereafter to become due to the Gas Vendor or in which the Gas Vendor may now or hereafter acquire any interest including, without limitation, any and all book debts, accounts receivable and accounts in respect thereof, and all proceeds thereof or therefrom (collectively, the "**Debts**"); and
 - (ii) all present and future books, accounts, letters, Invoices, papers and documents in any way evidencing or relating to all or any of the Debts,

(collectively in this section B.15, referred to as the "**Assigned Amounts**").

The Gas Vendor expressly authorizes the Gas Distributor to collect and otherwise realize the Assigned Amounts and rights hereby transferred from time to time in such manner and at such times as it may in its discretion deem advisable, including notifying any person obligated to the Gas Vendor in respect of one or more Assigned Amounts to make payment to the Gas Distributor of all present and future amounts due thereon and the Gas Distributor shall appropriate the proceeds thereof as contemplated herein.

- (d) The Gas Distributor may grant extensions, take and give up securities, accept compositions, grant releases and discharges and generally deal with the Assigned Amounts in its absolute discretion without consent of or notice to the Gas Vendor.

B.16 Price Revisions

Where gas distributor-consolidated billing is in a rate-ready form, the Gas Vendor may increase or decrease the price applicable to its customer, provided that any such increase or decrease is made only,

- (a) once a month; and,
- (b) by the Gas Vendor notifying the Gas Distributor of the particulars of such increase or decrease, including the customer to which the change applies and the new price applicable.

Each increase or decrease effected pursuant to this section shall become effective on the relevant date identified in the relevant STR.

B.17 Changes to the Gas Distributor's Rate

The Gas Distributor shall provide written notification to the Gas Vendor of any approved changes to the Gas Distributor's rates at the same time the Gas Distributor notifies its customers.

B.18 Disputes between Customers and Gas Vendor

- (a) Resolution Process - If a customer of the Gas Vendor objects to any actions of the Gas Vendor or disputes any aspect of its relationship with the Gas Vendor and, as a consequence, threatens that it will not pay, or fails to pay, an amount payable to the Gas Distributor pursuant to an Invoice, the Gas Distributor shall notify the Gas Vendor of the objection or dispute. Promptly following such notification, the Gas Vendor shall enter into discussions with such customer with a view to resolving the objection or dispute. If the objection or dispute is not resolved within thirty (30) days of the delivery of such notification, then the Gas Distributor shall be entitled, pending the resolution of the objection or dispute, to bill the customer (pursuant to section B.5) an amount determined on the basis of the relevant system gas supply charge being applied to the Monthly Volume applicable to the disputing customer and to remit to the Gas Vendor (pursuant to section B.6) an amount determined on the basis of the relevant system gas supply charge being applied to the customer's pro rata share of the Delivered Volume for such month. The Gas Distributor shall be entitled to so bill the customer and so remit to the Gas Vendor until the Gas Distributor is advised of the resolution of the objection or dispute. Forthwith following resolution of the objection or dispute, the Gas Vendor shall notify the Gas Distributor of such resolution, and thereafter the Gas Distributor shall bill the customer, and remit to the Gas Vendor in respect thereof in accordance with this Agreement, an amount based on the relevant price for such customer.

- (b) No Adjustments - Notwithstanding that, during the currency of an objection or dispute, the Gas Distributor may have billed a disputing customer, and remitted to the Gas Vendor, an amount determined on the basis of the relevant system gas supply charge as provided for in section B.18(a), there shall be no adjustment or retroactive accounting in respect of any Invoice Amount for such billing or remittance, except as required to correct, if necessary, the Monthly Volume used to determine the amount billed to the customer.

APPENDIX B-1**Calculation of Maximum Security Amount**

The following are examples of the calculation methodology applied by the Gas Distributor for the calculation of the Maximum Security Amount where the Gas Distributor has selected the 'gas delivery option' pursuant to section B.6 of Appendix B.

Example 1 – Remittance based on delivery of gas to the Gas Distributor in a month where the forecasted banked gas account attributed to the Gas Vendor is in a debit and the respective NYMEX Dawn Basis price is less than commodity rate specified by the Gas Vendor.

Assume:

Consumption = 10,000 m³

Delivery = 8,000 m³

NYMEX = \$0.16 per m³

Commodity rate = \$0.25 per m³

The Maximum Security Amount is calculated as follows:

$$\begin{aligned} &= \text{banked gas account} \times \text{NYMEX} - (\text{amounts collected} - \text{amounts remitted}) \\ &= [\text{consumption} - \text{delivery}] \times \text{NYMEX} - ([\text{consumption} \times \text{commodity rate}] - [\text{delivery} \times \text{commodity rate}]) \\ &= [10,000 - 8,000] \times 0.16 - ([10,000 \times 0.25] - [8,000 \times 0.25]) \\ &= -\$180 \end{aligned}$$

The calculation would be repeated for each banked gas account attributed to the Gas Vendor for each month of the applicable 12 month period and then summed up by month to determine the month with the maximum cumulative Maximum Security Amount. A negative cumulative Maximum Security Amount would represent no security required from the Gas Vendor.

Example 2 – Remittance based on delivery of gas to the Gas Distributor in a month where the forecasted banked gas account attributed to the Gas Vendor is in a debit and the respective NYMEX Dawn Basis price is greater than commodity rate specified by the Gas Vendor.

Assume:

$$\begin{aligned} \text{Consumption} &= 10,000 \text{ m}^3 \\ \text{Delivery} &= 8,000 \text{ m}^3 \\ \text{NYMEX} &= \$0.30 \text{ per m}^3 \\ \text{Commodity rate} &= \$0.25 \text{ per m}^3 \end{aligned}$$

The Maximum Security Amount is calculated as follows:

$$\begin{aligned} &= \text{banked gas account} \times \text{NYMEX} - (\text{amounts collected} - \text{amounts remitted}) \\ &= [\text{consumption} - \text{delivery}] \times \text{NYMEX} - ([\text{consumption} \times \text{commodity rate}] - [\text{delivery} \times \text{commodity rate}]) \\ &= [10,000 - 8,000] \times 0.30 - ([10,000 \times 0.25] - [8,000 \times 0.25]) \\ &= \$100 \end{aligned}$$

The calculation would be repeated for each banked gas account attributed to the Gas Vendor for each month of the applicable 12 month period and then summed up by month to determine the month with the maximum cumulative Maximum Security Amount. A negative cumulative Maximum Security Amount would represent no security required from the Gas Vendor.

Example 3 – Remittance based on delivery of gas to the Gas Distributor in a month where the forecasted banked gas account attributed to the Gas Vendor is in a credit and the respective NYMEX Dawn Basis price is less than commodity rate specified by the Gas Vendor.

Assume:

$$\begin{aligned} \text{Consumption} &= 8,000 \text{ m}^3 \\ \text{Delivery} &= 10,000 \text{ m}^3 \\ \text{NYMEX} &= \$0.16 \text{ per m}^3 \\ \text{Commodity rate} &= \$0.25 \text{ per m}^3 \end{aligned}$$

The Maximum Security Amount is calculated as follows:

$$\begin{aligned} &= \text{banked gas account} \times \text{NYMEX} - (\text{amounts collected} - \text{amounts remitted}) \\ &= [\text{consumption} - \text{delivery}] \times \text{NYMEX} - ([\text{consumption} \times \text{commodity rate}] - [\text{delivery} \times \text{commodity rate}]) \\ &= [8,000 - 10,000] \times 0.16 - ([8,000 \times 0.25] - [10,000 \times 0.25]) \\ &= \$180 \end{aligned}$$

The calculation would be repeated for each banked gas account attributed to the Gas Vendor for each month of the applicable 12 month period and then summed up by month to determine the month with the maximum cumulative Maximum Security Amount. A negative cumulative Maximum Security Amount would represent no security required from the Gas Vendor.

Example 4 – Remittance based on delivery of gas to the Gas Distributor in a month where the forecasted banked gas account attributed to the Gas Vendor is in a credit and the respective NYMEX Dawn Basis price is greater than commodity rate specified by the Gas Vendor.

Assume:

Consumption = 8,000 m³

Delivery = 10,000 m³

NYMEX = \$0.30 per m³

Commodity rate = \$0.25 per m³

The Maximum Security Amount is calculated as follows:

$$\begin{aligned} &= \text{banked gas account} \times \text{NYMEX} - (\text{amounts collected} - \text{amounts remitted}) \\ &= [\text{consumption} - \text{delivery}] \times \text{NYMEX} - ([\text{consumption} \times \text{commodity rate}] - [\text{delivery} \times \text{commodity rate}]) \\ &= [8,000 - 10,000] \times 0.30 - ([8,000 \times 0.25] - [10,000 \times 0.25]) \\ &= \$-100 \end{aligned}$$

The calculation would be repeated for each banked gas account attributed to the Gas Vendor for each month of the applicable 12 month period and then summed up by month to determine the month with the maximum cumulative Maximum Security Amount. A negative cumulative Maximum Security Amount would represent no security required from the Gas Vendor.

APPENDIX C

Details of Payment

Any discrepancies should be brought to the attention of the other Party and, if confirmed, a credit/debit will be processed for the next payment cycle.

Payment shall be made according to the following instructions:

C.1 PAYMENT TO THE GAS DISTRIBUTOR

The Gas Vendor shall make payments to the Gas Distributor by:

- Pre-authorized payment, or,
- Electronic Funds Transfer, or,
- Cheque

(The Gas Vendor shall tick one of the above boxes)

(The Gas Vendor shall fill in the blanks below)

Contact Information (if different than Appendix A):

Banking Institution: _____

Account Number: _____

Address: _____

City	Province	Postal Code
E-mail Address	Phone Number	FAX Number

C.2 PAYMENT TO THE GAS VENDOR

The Gas Distributor shall make payments to the Gas Vendor by:

- Pre-authorized payment, or,
- Electronic Funds Transfer, or,

Cheque

(The Gas Distributor shall tick one of the above boxes)

(The Gas Distributor shall fill in the blanks below)

Contact Information (if different than Appendix A):

Banking Institution:

Account Number:

Address:

City Province Postal Code

E-mail Address Phone Number FAX Number

APPENDIX D

EBT Standards and Related Obligations

Per Ontario Energy Board approved Electronic Business Transaction document.

APPENDIX E

Incorporated Agreements

The following Incorporated Agreements can be found on the Enbridge website at inside.enbridge.com:

- Gas Delivery Agreement (Agent) Schedule
- EnTRAC User Agreement Schedule
- other: _____ Unbundled Service Agreement(s) and associated Storage and Transportation Hub Agreement(s)

(The Gas Vendor shall tick all of the applicable above boxes)

APPENDIX F**Additional Term**

This Additional Term is in addition to and not in substitution for any other term in this Agreement.

F.1 Invoice Vendor Adjustment Thresholds

Effective the date that Chapter 4 of the Rule comes into effect, the Gas Distributor will use pre-emptive soft thresholds for price point creation, price change, and invoice vendor adjustment requests to avoid accidental and potentially severe negative impacts to consumers. The Gas Distributor will set predefined thresholds for each category of pricing and adjustments. If a request to exceed one of these thresholds is received, the Gas Distributor will hold the request and make an effort to confirm the validity of the request with the Gas Vendor. After 7 calendar days, if the Gas Distributor has been unable to confirm the request, or it has been mutually agreed that the request is in error, it will be rejected. If the request is validated with the Gas Vendor, it will be accepted and processed, subject to the condition that in no event shall the Gas Distributor accept from the Gas Vendor any portion of an invoice vendor adjustment consisting of a fee charged to a Gas Vendor's customer for early termination of an agreement for the supply of gas.

The Gas Distributor will review the thresholds on an annual basis, or more frequently as conditions require. Any changes to the thresholds will be communicated outside of the EBT Standards. Notice of changes will be made thirty days in advance in a method consistent with section 7.7 of the Agreement. The Gas Distributor will make available these thresholds for viewing on its website on or before the effective date of the threshold.