

**STATEMENT OF OPERATING CONDITIONS  
FOR ONEOK WESTEX TRANSMISSION, L.L.C.**

**ARTICLE I  
Definitions**

When used herein, the following terms, which shall be equally applicable to the singular and the plural forms of the terms defined, shall have the following meanings:

- 1.1 The term “**Btu**” shall mean British Thermal Unit(s). The definition of one Btu is the quantity of heat that must be added to one pound (avoirdupois) of pure water to raise its temperature from 58.5 degrees Fahrenheit to 59.5 degrees Fahrenheit under standard pressure conditions. Btu shall be computed on a temperature base of sixty degrees Fahrenheit (60° F.) and pressure base of 14.73 pounds per square inch absolute and on a gross-real-dry basis.
- 1.2 The term “**Company**” shall mean ONEOK WesTex Transmission, L.L.C., a Delaware limited liability company, operating an intrastate Natural Gas transmission pipeline in the State of Texas and which provides Transportation Service under the regulatory jurisdiction of the Railroad Commission of Texas (RRC) and shall include any designee(s) of Company.
- 1.3 The term “**Customer**” shall mean the person or entity that has executed an Agreement with the Company for the Service rendered pursuant to such Agreement or, as the context may require, any person or entity requesting Service hereunder.
- 1.4 The term “**Day**” or “**Gas Day**” shall mean a period of twenty-four (24) consecutive hours commencing and ending at 9:00 a.m. (Central Clock Time), or as may be changed by Company to be consistent with any industry changes in the start of the Gas Day.
- 1.5 The term “**Equivalent Quantity**” shall mean the MMBTU of Natural Gas to be made available during any period of time to or on behalf of the Customer at one or more Point(s) of Delivery, which MMBTU of Natural Gas shall be the thermal equivalent of the quantity delivered to Company at the Point(s) of Receipt by or on behalf of Customer during that period of time, less the applicable Fuel Use and Line Loss quantity.
- 1.6 The term “**Firm Transportation**” or “**Firm Transportation Service**” shall mean Transportation Service that is provided on a firm basis, is not subject to a prior claim by another Customer or another class of Service; and receives the same priority as any other firm Customer in that it has the highest priority of Transportation Service offered by Company as set forth in Article XI of this SOC.
- 1.7 The term “**Fuel Use**” and “**Line Loss**” shall be the applicable percentage set forth in the Agreement.
- 1.8 The term “**gas**”, “**Gas**” or “**Natural Gas**” shall mean the effluent vapor stream in its natural, gaseous state, including gas-well gas, casinghead gas, residue gas resulting from

processing both casinghead gas and gas-well gas, and all other hydrocarbon and non-hydrocarbon components thereof.

- 1.9 The term “**Heating Value**” shall mean the number of Btu’s per cubic foot of gas produced by the complete combustion of the gas at constant temperature and pressure, where the gas is measured at 14.73 pounds per square inch absolute (14.73 psia) and 60 degrees Fahrenheit (60° F.) with air of the same temperature and pressure of the Gas, after products of combustion are cooled to the initial temperature of the Gas, and after the water of the combustion is condensed to the liquid state. Company shall correct the Heating Value of the Gas for the water vapor content of Gas at the Point(s) of Delivery in accordance with GPA 2172/API 14.5, but if the gas as so delivered contains seven (7) pounds or less of water vapor per 1,000,000 cubic feet, then the Gas is deemed to be dry and no correction is to be made. The Heating Value described herein shall be determined through means of chromatographic detection.
- 1.10 The term “**Interruptible**” shall mean Service that is subject to interruption at any time by Company, without liability as set forth herein.
- 1.11 The term “**Interruptible Transportation Service**” shall mean Transportation Service that is subject to interruption at any time by Company, without liability as set forth herein, and shall have the priority specified in Article XI of this SOC.
- 1.12 The term “**Loan**” shall mean the advance of Gas by Company to Customer at a PAL point set forth in Customer’s Service Order and the subsequent redelivery, of such loaned quantity to Company at the same PAL Point.
- 1.13 The term “**Maximum Daily Quantity**” or “**MDQ**” shall mean either (i) the maximum daily quantity of capacity that a Customer can nominate on any day for Interruptible Transportation Services, (ii) the MDDQ of capacity reserved for Firm Transportation Service or (iii) the maximum daily quantity that a Customer can nominate on any day for Park and Loan Service.
- 1.14 The term “**Maximum Daily Demand Quantity**” or “**MDDQ**” shall mean the maximum daily quantity of capacity that a Customer can nominate on any day which is reserved for Firm Transportation Services.
- 1.15 The term “**Month**” shall mean the period currently beginning at 9:00 a.m. Central clock time on the first Day of each calendar month and currently ending at 9:00 a.m. Central clock time on the first Day of the next succeeding calendar month, or as may be changed by Company to be consistent with any industry changes in the start of the Gas Day, except where references not involving Gas measurement volumes are involved, in which case the calendar month shall be deemed to be the month referred to.
- 1.16 The term “**Mcf**” shall mean one thousand (1,000) cubic feet of gas.
- 1.17 The term “**Operational Flow Order**” or “**OFO**” shall mean the issuance of notice via the telephone, e-mail, facsimile, or other public notification means as may be determined by the Company, that Company must take action or that requires Customer action to

alleviate conditions which threaten or could threaten the safe operations or the integrity of the Company's System(s), or which are required to maintain efficient and reliable service.

- 1.18 The term "**PAL Point**" shall mean a Point of Receipt or Point of Delivery at which Company may receive and hold on behalf of Customer or advance to Customer a quantity of gas nominated by Customer pursuant to the PAL Service.
- 1.19 The term "**Park**" shall mean the receipt by Company of Gas from or for the account of Customer at a PAL Point set forth in Customer's Service Order, the holding of such parked quantity for a period of time and the subsequent redelivery, to Customer at the same PAL Point.
- 1.20 The term "**Park and Loan Service**" or "**PAL**" shall mean either the Park of Gas or a Loan of Gas at the PAL Point(s) specified in Customer's Service Order.
- 1.21 The term "**Party**" shall mean either Company or Customer, and the term "**Parties**" shall mean both Company and Customer.
- 1.22 The term "**Point(s) of Delivery**" shall mean the point or points where Gas is delivered to or for the account of Customer and are shown on the applicable Service Order. Each Point of Delivery shall be treated separately with respect to all rights and obligations and all actions to be taken pursuant to the Agreement and the Exhibits attached thereto, including, without limitation, nominations, balancing, Gas quality, delivery pressure and force majeure.
- 1.23 The term "**Point(s) of Receipt**" shall mean the point or points where the Company shall receive Gas from the Customer, as described on the applicable Service Order. Each Point of Receipt shall be treated separately with respect to all rights and obligations and all actions to be taken pursuant to the Agreement and the Exhibits attached thereto, including, without limitation, nominations, balancing, Gas quality, delivery pressure and force majeure.
- 1.24 The term "**Service**" shall mean all services provided under this SOC and the Service Agreement including Transportation Service and Park and Loan Service.
- 1.25 The term "**Service Agreement**" or "**Agreement**" shall mean an executed Service Agreement, including the executed Service Order(s) and currently effective Statement of Operating Conditions, made by and between Company and Customer, whereby Company will provide Transportation Service or Park and Loan Service for Customer pursuant to the terms and provisions of this SOC, the applicable Agreement and the applicable Service Order.
- 1.26 The term "**Service Order**" shall mean the form, which evidences the agreement between the Parties as to the terms of a particular transaction for the Service(s) provided under the SOC.
- 1.27 The term "**Statement of Operating Conditions**" or "**SOC**" shall mean the applicable

terms and conditions of Service contained herein, as it may be modified from time to time.

- 1.28 The term “**System**” or “**Systems**” shall mean the various pipeline facilities and related equipment located in the State of Texas and owned by the Company, including but not limited to the compressors, regulators, meters and support facilities.
- 1.29 The term “**Taxes**” shall mean any tax (other than ad valorem, income or excess profit taxes), license, fee or charge now or hereafter levied, assessed or made by a governmental authority related to the provisioning of Service hereunder, including, but not limited to, transporting, handling, parking, lending or delivering gas which is measured by the volume, value, carbon content or sales price of the gas or the gross receipts from providing a Service.
- 1.30 The term “**Total PAL Quantity**” shall mean the maximum quantity Customer may nominate in aggregate for Company to receive and hold on behalf of Customer or advance to Customer pursuant to Park and Loan Service over the term of the Service.
- 1.31 The term “**Transportation**” or “**Transportation Service**” shall mean the transmission of Gas, whether by exchange, backhaul, displacement or any other actual or constructive method or movement of gas from any Point(s) of Receipt to any Point(s) of Delivery.
- 1.32 The term “**Week**” shall mean a period of seven (7) consecutive days currently beginning at 9:00 a.m. Central Clock Time on each Monday and currently ending at the same time on the next succeeding Monday, or as may be changed by Company to be consistent with any industry change in the start of the Gas Day.
- 1.33 The term “**Year**” shall mean a period of 365 consecutive days; provided, however, any such period which contains the date of February 29 shall consist of 366 consecutive days.

## ARTICLE II

### Availability, Quantities, and Character of Service Provided

- 2.1 Availability of Service. Service provided under the Agreement shall be subject to all valid orders, rules, laws and regulations of duly constituted governmental authorities having or asserting jurisdiction or control over the Parties, their facilities and/or their gas supplies. Service is available to any person, corporation, partnership, Customer, or any Party on a nondiscriminatory, open-access basis subject to the following limitations:
- (a) All requests for Service shall be made in writing or other electronic means acceptable to Company. Customer’s request for Service must provide Company with all information necessary for Company to evaluate such request for Service, including, but not limited to the type of Service requested, Point(s) of Receipt and Point(s) of Delivery, the term of Service requested, and any information necessary or required to evaluate the creditworthiness of Customer pursuant to Article VIII of this SOC. Company shall evaluate each request upon receipt of all necessary information and all filing and reporting fees, if any required, are received by Company;

- (b) Company shall not be obligated to consider requests for Service to the extent it lacks capacity to perform the requested Service, or to the extent that a request for Service seeks Service in a manner inconsistent with this SOC; and
- (c) Customer and Company shall have executed an Agreement or confirmed an existing Agreement to be pursuant to and consistent with this SOC. Company shall prepare a Service Order to evidence the agreement of the Parties to a particular transaction. Customer may evidence its agreement to the terms of the Service Order by signing and returning the Service Order to Company, or by making an affirmative nomination pursuant to that Service Order.

2.2 Quantity of Gas to be Transported. Subject to the terms herein for Transportation Services, Company agrees to accept, on each Day at each Point of Receipt designated in the Agreement, a quantity of gas as provided in such Agreement and which shall be referred to as the MDQ.

- (a) Company may, in its sole discretion, accept or refuse quantities of gas tendered on any Day by Customer which are in excess of Customer's total MDQ or Customer's MDQ specified at each Point of Receipt and/or Point of Delivery. Any excess gas so accepted by Company will be subject to all of the terms and provisions herein. Any gas accepted by Company in excess of the total MDQ or the MDQ specified at each Point of Receipt and/or Point of Delivery will be provided on an Interruptible basis as an Interruptible Transportation Service.
- (b) Commencing on the date Customer initiates deliveries of gas to Company for Transportation Service under the Agreement, Company will deliver an Equivalent Quantity to Customer at the Point(s) of Delivery.

2.3 Quantity of Gas to be Parked or Loaned. Subject to the terms herein for Interruptible Park and Loan Services, Company agrees to accept for Park Service or deliver for Loan Service, on each Day at each PAL Point designated in the Agreement, a quantity of gas as provided in such Agreement and which shall be referred to as the "Maximum Daily Quantity" or "MDQ." Company may, in its sole discretion, accept or refuse quantities of gas tendered on any Day by Customer which are in excess of the MDQ. Any excess gas so accepted by Company will be subject to all of the terms and provisions herein.

2.4 Character of Service.

- (a) Firm Transportation Service. Company shall provide Firm Transportation Service subject to the provisions of this SOC, the Service Order and the Agreement between Company and Customer, including the MDQ specified therein. Company may interrupt Firm Transportation Service hereunder whenever Customer fails to comply with any provision of this SOC, the Service Order or the Agreement. Company shall have the right to waive any one or more specific defaults by Customer, provided, however, that no such waiver shall operate or be construed as a waiver of any existing or future defaults, whether of a like or different character. Customer recognizes that the Firm Transportation Services

provided hereunder may be interrupted in whole or in part at any time and from time to time in Company's discretion to maintain System integrity and for planned and unplanned maintenance and subject to the provisions of Article XI herein. Company shall give Customer five (5) business Days' advance notice of such interruptions whenever it is commercially reasonable. The Parties agree that in no event shall an interruption of Firm Transportation Service in accordance with this provision constitute a breach of the Agreement and that Company shall not be liable to Customer for damages or otherwise due to such interruption of Firm Transportation Service.

- (b) **Interruptible Transportation Service.** Company shall provide Interruptible Transportation Service on an Interruptible basis subject to the provisions of this SOC, the Service Order and the Agreement between Company and Customer, including the MDQ specified therein. Company may interrupt Interruptible Transportation Service hereunder whenever Customer fails to comply with any provision of this SOC, the Service Order or the Agreement. Company shall have the right to waive any one or more specific defaults by Customer, provided, however, that no such waiver shall operate or be construed as a waiver of any existing or future defaults, whether of a like or different character. Customer recognizes that the Interruptible Transportation Services provided hereunder are to be performed by Company on an Interruptible basis and may be interrupted without notice in whole or in part at any time and from time to time as determined by the Company in its discretion, subject to the provisions of Article XI herein. The Parties agree that in no event shall an interruption of Service in accordance with this provision constitute a breach of the Agreement and that Company shall not be liable to Customer for damages or otherwise due to such interruption of Service. The Company reserves the right to oversubscribe the Transportation capacity of the System.
- (c) **Interruptible Park and Loan Service.** Customer recognizes that Interruptible Park and Loan Services provided hereunder may be interrupted without notice in whole or in part at any time and from time to time as determined by the Company in its sole discretion subject to the provisions of Article XI herein. Further, Customer recognizes that upon notification from Company, Customer may be required to suspend or reduce deliveries for Park Service or suspend or reduce receipts for Loan Service. Customer also recognizes that upon notification from Company, Customer may be required to remove quantities of gas previously provided to Company under Park Service or return quantities of gas previously loaned to Customer under Loan Service.
- (d) Where the Customer's Service Order creates a firm total MDQ, but does not identify a firm MDQ at a specific Point(s) of Receipt and/or Point(s) of Delivery as identified in the Service Order, such Service shall only be provided at specific Point(s) of Receipt and/or Point(s) of Delivery subject to availability, at the time the request for Service at a specific point is made and firm MDQ already designated by other Customer(s) at that point.

- (e) Notwithstanding anything in this SOC or an Agreement to the contrary, Company may for operational reasons, at any time and from time to time, with reasonable notice to Customer if practicable, restrict, interrupt, or reduce its receipts and deliveries of Gas at the Point(s) of Receipt and/or Point(s) of Delivery, and direct Customer to make adjustments in its receipts or deliveries, in order to maintain a daily and hourly balance or to correct an imbalance. If Customer fails or refuses to follow any such request from Company, Company may, without liability hereunder, cease accepting or delivering Gas under the Agreement until the conditions causing the imbalance are corrected.
- (f) Customer requests for the utilization of additional Point(s) of Receipt and/or Point(s) of Delivery, not specifically identified in Customer's Service Order or Agreement, shall be granted at the sole discretion of the Company.

2.5 Rate of Flow. The gas to be received by Company hereunder shall be delivered by Customer at uniform hourly and daily rates of flow as nearly as practicable except as may be set forth in Customer's Service Order. However, it is recognized that due to operating conditions, the quantities of gas received and delivered may not be in balance on any one particular Day. Furthermore, to the extent receipt and/or delivery rate information is available, Company and Customer shall immediately inform each other of any changes of delivery rate at the Point(s) of Receipt and/or Point(s) of Delivery, and Company reserves the right to adjust the confirmed nomination at the Point(s) of Receipt and/or Point(s) of Delivery to an Equivalent Quantity to the volumes being received and/or delivered to Customer at the Point(s) of Receipt and/or Point(s) of Delivery at the time of such adjustment. However, prior to adjusting the confirmed nominations at the Point(s) of Receipt and/or Point(s) of Delivery, Company shall provide Customer a minimum of two (2) hours' notice, excluding periods when an OFO is in effect, to allow Customer to change its nominations to satisfy its Natural Gas requirements. Notwithstanding Company's right to adjust confirmed nominations as described above, Customer shall remain liable for any balancing requirements as set forth in this Article II.

2.6 Daily Transportation Balancing Requirements. It is the intention of Company and Customer that hourly deliveries to Customer at the Point(s) of Delivery hereunder will be approximately equal, on the basis of gross Heating Value, to hourly receipts by Company at the Point(s) of Receipt. However, due to variations in operating conditions, daily deliveries may be greater or less than the corresponding receipts of gas.

- (a) Excluding periods when an OFO is in effect, if receipts of gas at the Point(s) of Receipt on any given Day exceed deliveries of gas at the Point(s) of Delivery on such Day by greater than five percent (5%), Company shall purchase from Customer (on an MMBTU basis) any such gas volumes in excess of five percent (5%) on that Day at a rate equivalent to the applicable cashout percentage set forth below of the published price shown for that Day in the publication Platts Gas Daily, under the heading "Absolute Low for Texas Intrastate, Waha Area" or, if not published, an equivalent index or indicator as selected by the Company.

Imbalance Percentage	Cashout Percentage
>5%-20%	90%
>20%	75%

- (b) Excluding periods when an OFO is in effect, if deliveries of gas at the Point(s) of Delivery on any given Day exceed receipts of gas at the Point(s) of Receipt on such Day by greater than five percent (5%), Customer shall purchase from Company (on an MMBTU basis) any such gas volumes in excess of five percent (5%) on that Day at a rate equivalent to the applicable cashout percentage set forth below of the published price shown for that Day in the publication Platts Gas Daily, under the heading “Absolute High for Texas Intrastate, Waha Area” or, if not published, an equivalent index or indicator as selected by the Company. For the purposes herein, any such purchase, as described in this paragraph or in the immediately preceding paragraph, shall be referred to as a “cashout.”

Imbalance Percentage	Cashout Percentage
>5%-20%	110%
>20%	125%

- (c) Notwithstanding the tolerance levels described above and excluding periods when an OFO is in effect, (i) if the total quantities received at the Point(s) of Receipt on any given Day are within five percent (5%) of the total actual volumes delivered at the Point(s) of Delivery on such Day, then the daily cashout fees will not apply, and (ii) Company may, at its sole discretion in a non-discriminatory manner at any time and from time to time, elect to waive the daily balancing requirements described in this Article 2.6.

2.7 Monthly Transportation Balancing Requirements. In addition to the Daily Balancing Requirements described in Article 2.6, Customer shall be subject to the Monthly Balancing Requirements described in this Article 2.7. The difference between the total actual monthly quantities of gas received by Company from Customer at the Point(s) of Receipt and the total actual monthly quantities delivered at the Point(s) of Delivery is the “Monthly Delivery Variance.”

- (a) After receipt of written notice of the Monthly Delivery Variance (“imbalance statement”), Customer shall have the option, within five (5) Days of receipt of the imbalance statement, to trade the monthly imbalance quantity with another Customer or, if Company determines that available capacity and operating conditions so permit, to settle the monthly imbalance quantity in kind. Any remaining monthly imbalances will be cashed out under the process below.
- (b) If receipts of gas at the Point(s) of Receipt on any given Month exceed deliveries



of gas at the Point(s) of Delivery for such Month by greater than three percent (3%), Company shall purchase from Customer (on an MMBTU basis) any such gas volumes in excess of three percent (3%) at a rate equivalent to the applicable cashout percentage set forth below of the lesser of:

- (1) the first of month index price as published in Inside FERC Gas Market Report under the heading “West Texas Waha” or, if not published, an equivalent index or indicator, for the month that gas flowed when the imbalance accrued; or
- (2) the first of month index price as published in Inside FERC Gas Market Report under the heading “West Texas Waha”, or, if not published, an equivalent index or indicator, for the Month in which the imbalance was calculated.

Imbalance Percentage	Cashout Percentage
>3%-20%	90%
>20%	75%

(c) If deliveries of gas at the Point(s) of Delivery for any given Month exceed receipts of gas at the Point(s) of Receipt for such Month by greater than three percent (3%), Customer shall purchase from Company (on an MMBTU basis) any such gas volumes in excess of three percent (3%) at a rate equivalent to the applicable cashout percentage set forth below of the greater of:

- (1) the first of month index price as published in Inside FERC Gas Market Report under the heading “West Texas Waha”, or, if not published, an equivalent index or indicator, for the Month that gas flowed when the imbalance accrued; or
- (2) the first of month index price as published in Inside FERC Gas Market Report under the heading “West Texas Waha” or, if not published, an equivalent index or indicator, for the Month in which the imbalance was calculated.

Imbalance Percentage	Cashout Percentage
>3%-20%	110%
>20%	125%

(d) Company may, on a nondiscriminatory basis, at its sole discretion, at any time and from time to time, elect to waive the monthly balancing requirements described in this Article 2.7.

- 2.8 Upstream and Downstream Transporters. Customer shall make all necessary arrangements with other pipelines or parties upstream of the Point(s) of Receipt or downstream of the Point(s) of Delivery in order to effect Company's receipt or delivery of Customer's gas.
- 2.9 Third Party Imbalance Penalties. Company or its designee will use commercially reasonable efforts to enter into operational balancing agreements or similar arrangements with the operators of the interconnecting facilities at the Point(s) of Receipt and Point(s) of Delivery. If, on any Day, Customer or Company receives or delivers a quantity of gas, stated in MMBTU, that is greater or less than that nominated and scheduled for receipt or delivery at the Point(s) of Receipt and/or Point(s) of Delivery, respectively, and such deliveries cause Customer or Company to incur a penalty(ies), cashout cost(s), fee(s), forfeiture(s) or charge(s) (collectively referred to as "penalties") as levied by any transporter upstream or downstream of the respective Point(s) of Receipt and/or Point(s) of Delivery, the Party whose actions resulted in the assessment of the penalty or other charges agrees to bear and pay such penalties or other charges. Customer and Company agree to provide each other with all information necessary to determine what event or Party caused the imbalance resulting in the imposition of such penalties or other charges by the operators of the interconnecting facilities at the Point(s) of Receipt and/or Point(s) of Delivery.
- 2.10 Interruptible Park and Loan Service. Interruptible Park and Loan Service is provided subject to availability and will be provided by Company on an Interruptible basis and will be performed in accordance with the applicable terms of this SOC, the Agreement, and any Service Order. The PAL Service Order shall set forth the commencement of Service date, the termination of Service date, the Total PAL Quantity, the MDQ, the commodity rate, and the applicable PAL Point.
- (a) Interruptible Park Service
- (1) Customer may Park gas pursuant to the PAL Service Order up to the MDQ and the Total PAL Quantity for the term as identified therein. The Park of such quantities of Gas shall be for a minimum of one (1) Day to the next Day. The maximum length of time the Gas may be left in the Park account will be determined by the Company. All such quantities of Gas that are nominated for Park shall be credited to the Customer's Park account.
- (2) Volume balances parked by Company for Customer pursuant to an applicable Service Order must be cleared to a zero volume balance as of the end of the gas day of the termination date of the Service Order. In the event volume balances remain at the end of the gas day of the termination date of the Service Order, Customer shall be obligated to pay for each Day the Customer has not cleared its balance to zero.

Subject to the availability of capacity for Park Service, at the request of Customer, Company may agree, in its sole discretion, to continue the Park

at a mutually agreed upon rate on a daily basis subsequent to the termination date of the Service Order.

If Company does not agree to continue the Park Service, Company shall clear the remaining volume balance as follows:

a) Parked quantities shall be purchased by Company at a price equal to 50% of the lowest midpoint price, which shall be determined utilizing the Day on which the contract was terminated or the preceding two Days, whichever may be lowest, as published in Inside FERC's Gas Market Report under the heading "Waha", or, if not published, an equivalent index or indicator.

(b) Interruptible Loan Service

(1) Customer may request a Loan pursuant to the PAL Service Order up to the MDQ and the Total PAL Quantity for the term as identified therein. The Loan of such quantities of Gas shall be for a minimum of one (1) Day to the next Day. The maximum length of time the Gas may be loaned from the Loan account will be determined by Company. All such quantities of Gas that are approved for Loan shall be debited to the Customer's Loan account.

(2) Volume balances loaned by Company for Customer pursuant to an Agreement and applicable Service Order must be cleared to a zero volume balance due as of the end of the gas day of the termination date of the Service Order. In the event volume balances remain due to Company at the end of the gas day of the termination date of the Service Order, Customer shall be obligated to pay for each Day the Customer has not cleared its balance to zero.

Subject to the availability of Loan Services, Company may agree, in its sole discretion, to continue the Loan at a mutually agreed upon rate on a daily basis subsequent to the termination date of the Service Order.

If Company does not agree to continue the Loan Services, Company shall clear the remaining volume balance due as follows:

a) Loaned quantities shall be sold to Customer at a price equal to 150% of the highest midpoint price, which shall be determined utilizing the Day on which the contract was terminated or the preceding two Days, whichever may be highest, as published in Inside FERC's Gas Market Report under the heading "Waha", or, if not published, an equivalent index or indicator.

2.11 Park and Loan Service Certification. Customer shall warrant for itself, its successors and assignors that it shall at the time of delivery to Company

- (a) have title to all gas free and clear of all liens, encumbrances, and claims whatsoever. Customer shall indemnify Company and hold it harmless from all suits, actions, debts, accounts, damages, costs, losses, and expenses arising from or out of adverse claims of any or all persons or parties to said gas, including claims for royalties, taxes, license fees or charges applicable to such gas or to the delivery thereof to Company under Park and Loan Service; and
- (b) it has entered into all necessary arrangements to assure that upstream and downstream transportation, if any, shall be in place prior to the commencement of a Park or Loan Service on Company.

**ARTICLE III**  
**Rates, Rate Election, Taxes and Fee Reimbursement**

3.1 If Firm Transportation Service is provided pursuant to the Agreement, Customer shall pay the following to Company, as mutually agreed to and set forth in the applicable Service Order:

- (a) A demand fee which shall be the charge for the various components as set forth in the applicable Service Order. The demand fee, either daily or monthly as set forth in the Customer's Agreement, shall be calculated in accordance with either (a)(1) or (a)(2) below, respectively.
  - (1) The daily demand fee is a reservation charge and shall be paid whether or not Customer nominates and/or accepts delivery of Gas from the System. The daily demand fee shall be calculated by multiplying the "Daily Demand Rate" by the MDDQ set forth in Customer's Service Order for each day of the applicable month;
  - (2) The monthly demand fee is a reservation charge and shall be paid whether or not Customer nominates and/or accepts delivery of Gas from the System. The monthly demand fee shall be calculated by multiplying the "Monthly Demand Rate" by the MDDQ set forth in Customer's Service Order;
- (b) The commodity fee which shall be the product of (i) the actual Gas delivered to the Point(s) of Delivery on an MMBTU basis, and (ii) the commodity rate as set forth in the applicable Service Order for each day of the applicable Month;
- (c) Fuel Use and Line Loss quantity; and
- (d) Customer shall pay all applicable surcharges, fees, Taxes, charges, and assessments imposed by or on behalf of any governmental entity in connection with the Agreement or in connection with the purchase, Transportation and disposition of Gas by or on behalf of Customer pursuant to the Agreement including but not limited to municipal and /or supplemental fees, franchise fees and any supplements thereto and Taxes; provided that Company shall pay all ad valorem taxes and assessments levied on the System and all appurtenant facilities.

At the request of Company, Customer will furnish Company with any information available to Customer in connection with Company's obligation under this article.

3.2 If Interruptible Transportation Service is provided pursuant to the Agreement, Customer shall pay the following to Company, as mutually agreed to and set forth in the applicable Service Order.

- (a) The commodity fee which shall be the product of (i) the actual Gas delivered to the Point(s) of Delivery on an MMBTU basis, and (ii) the commodity rate as set forth in the applicable Service Order for each day of the applicable Month;
- (b) Fuel Use and Line Loss quantity; and
- (c) Customer shall pay all applicable surcharges, fees, Taxes, charges, and assessments imposed by or on behalf of any governmental entity in connection with the Agreement or in connection with the purchase, Transportation and disposition of Gas by or on behalf of Customer pursuant to the Agreement including but not limited to municipal and /or supplemental fees, franchise fees and any supplements thereto and Taxes; provided that Company shall pay all ad valorem Taxes and assessments levied on the System and all appurtenant facilities. At the request of Company, Customer will furnish Company with any information available to Customer in connection with Company's obligation under this article.

3.3 If PAL Service is provided pursuant to the Agreement, Customer shall pay the following to Company, as mutually agreed to and set forth on the applicable Service Order.

- (a) The charges for PAL Services shall be the product of the Total PAL Quantity in Customer's PAL account and the maximum or mutually agreed upon commodity rate for Service tendered by Company.; and
- (b) Customer shall pay all applicable surcharges, fees, Taxes, charges, and assessments imposed by or on behalf of any governmental entity in connection with the Agreement or in connection with the purchase, Transportation and disposition of Gas by or on behalf of Customer pursuant to the Agreement including but not limited to municipal and /or supplemental fees, franchise fees and any supplements thereto and Taxes; provided that Company shall pay all ad valorem Taxes and assessments levied on the System and all appurtenant facilities. At the request of Company, Customer will furnish Company with any information available to Customer in connection with Company's obligation under this article.

**ARTICLE IV**  
**Delivery Pressures**

- 4.1 All gas delivered at the Point(s) of Receipt shall be delivered at pressures sufficient to enter Company's System at the working pressures maintained by Company at the Point(s) of Receipt from time to time. Company shall not be obligated to receive gas at pressures exceeding the Maximum Allowable Operating Pressures as defined and prescribed under any applicable governmental regulations.
- 4.2 All gas delivered at the Point(s) of Delivery shall be delivered at the working pressures maintained by Company at the Point(s) of Delivery from time to time. Customer shall not be obligated to receive gas at pressures exceeding the Maximum Allowable Operating Pressures as defined and prescribed under any applicable governmental regulations.
- 4.3 Neither Customer nor Company shall be required to compress gas in order to effect delivery to the other under the terms of the Agreement.

**ARTICLE V**  
**Measurement Procedures**

- 5.1 Atmospheric Pressure. The atmospheric pressure shall be assumed to be the average atmospheric pressure for the elevation as used by the Company in that particular geographic area where gas is measured.
- 5.2 Unit of Volume. The unit of volume for measurement of gas for all purposes shall be one (1) cubic foot of gas at a base temperature of sixty degrees Fahrenheit (60° F.) and at a pressure of fourteen and seventy-three hundredths pounds per square inch absolute (14.73 psia).
- 5.3 Basis. The measurement of gas hereunder shall be corrected for deviation from Boyle's Law at the pressures and temperatures under which gas is measured hereunder by use of the AGA 8, Second Edition, Nov 1992, Detailed Method or the most current subsequent edition available.
- 5.4 Sampling. At the option of either Party hereto, the acquisition of the sample will be by the use of a chromatograph, a continuous gas sampler or by taking spot gas samples all in accordance with API 14.1, as revised, "Methods for Obtaining Natural Gas Samples or Analysis by Gas Chromatography." In the event a continuous gas sampler is installed, the composite sample will apply to the Month during which the sample was collected. The result of a spot sample shall be applied to gas deliveries beginning on the 1<sup>st</sup> Day of the Month following the acquisition of the sample and receipt of the analytical results and continuing until the results are available from a new sample that has been taken.
- 5.5 Determination of Flowing Temperature. The temperature of the gas flowing through the meter or meters shall be determined by the continuous use of a recording thermometer installed so that it will properly record the temperature of the gas flowing through the meter or meters. The hourly average of the temperature shall be recorded and shall be used as part of the calculation for determining the volume of gas. Temperature shall be

determined to the nearest 1/2 degree and rounded to the nearest 1/100th (when available), degree in Fahrenheit.

- 5.6 Determination of Composition, Gross Heating Value, Specific Gravity. The composition of the gas shall be determined from the sample of the gas by using GPA Standard 2261, as revised "Method of Analysis for Natural Gas and Similar Gaseous Mixtures by Gas Chromatography", with the exception of sulfur compounds. The Gross Heating Value of the Gas shall be determined by using technically correct methods contained in GPA Standard 2172, as revised, "Methods for calculation of Gross Heating Value, Specific Gravity and Compressibility of Natural Gas Mixtures from Compositional Analysis."
- 5.7 Equipment. The operator of the measuring facilities at the respective Point(s) of Receipt and/or Point(s) of Delivery hereof shall operate and maintain, at its expense, said measuring equipment at the Point(s) of Receipt and/or Point(s) of Delivery hereunder. Each Party shall have access to the measuring equipment operated by such operator at all reasonable times, but readings, calibrations and adjustments thereof, shall be done by the employees or agents of the operator only.

Where measurement is by orifice, ultrasonic or Coriolis meter, all fundamental constants, observations, records and procedures involved in the determination and/or verification of the quantity and other characteristics of gas delivered hereunder shall be in accordance with the standards prescribed in the most current edition available of A.G.A. Report Nos. 3, 9 or 11 for orifice, ultrasonic or Coriolis meters respectively, with any revisions, amendments or supplements as may be mutually acceptable to Company and Customer, unless otherwise specified herein. When positive displacement is used for the measurement of gas, the flowing temperature of the gas shall be assumed to be sixty degrees Fahrenheit (60°F.) and no correction shall be made for any variation there from; provided, however, both Parties shall have the option of installing a recording thermometer, and if either Party exercises such option, correction shall be made for each degree variation in the average flowing temperature for each meter recording. Where measurement is by other than orifice, ultrasonic, Coriolis, turbine or positive meter, standards commonly acceptable in the Natural Gas industry shall be used in the determination of all factors involved in the computation of gas volumes.

As specified by Company, all measuring stations which it owns or operates at the Point(s) of Receipt and/or Point(s) of Delivery hereunder shall be equipped with orifice meter runs, orifice meter gauges, recording gauges or other types of meter or meters of standard make and design commonly accepted in the Natural Gas industry in order to accurately measure the gas delivered to Company or Customer hereunder. At Company's election, EFM transducers and other associated sensing devices may be installed to accurately measure the gas at the metering points which it owns or operates hereunder in accordance with the most current versions of API chapter 21.1 as revised "Flow Measurement using Electronic Metering Systems" in the most current edition available of AGA Report Nos. 3, 7, 9 and 11, as appropriate. If EFM and associated devices are installed, the values for gross Heating Value and specific gravity may be entered either manually (but not more frequently than once per Month) or as real time data if such data is available at the site of measurement. Values for components required in the super compressibility correction

determinations shall be entered as real time data if such data is available at the site of measurement or shall be entered manually at intervals mutually agreed upon, but at least once every six (6) months.

- 5.8 Calibration and Tests of Meters. If used, chromatographs shall be calibrated by the measuring Party against a standard gas sample at least once per Month. All other measuring equipment shall be calibrated and adjusted as necessary by the measuring Party. All meters flowing at a capacity of 120,000 MCF per Month or more shall be calibrated monthly and adjusted as necessary by the measuring Party. The other Party may, at its option, be present for such calibration and adjustment. The measuring Party shall give the other Party notice of the time of all tests sufficiently in advance of conducting same so that both Parties may conveniently have their representatives present. Following any test, any measuring equipment found to be inaccurate to any degree shall be adjusted immediately to measure accurately.

Each Party shall have the right, at any time, to challenge the accuracy of any measuring equipment used hereunder and may request additional tests. If, upon testing, the challenged equipment is found to be in error, then it shall be repaired and calibrated. The cost of any such special testing, repair and calibration shall be borne by the Party requesting the special test if the percentage of inaccuracy is found to be one percent (1%) or less; otherwise, the cost shall be borne by the Party operating the challenged measuring equipment. A correction shall be made for a period extending back to the time (not to exceed twenty-four (24) months) when such inaccuracy began, if such time is ascertainable. If not ascertainable, volume correction shall be made back to one-half (1/2) of the time elapsed since the last date of calibration.

- 5.9 Access to Meters and/or Records. The other Party shall have access at all reasonable times to the measuring equipment and all other instruments used by the measuring Party in determining the measurement and quality of the gas delivered to Company or Customer hereunder, but the reading, calibrating, and adjusting thereof shall be done only by employees, agents or representatives of the measuring Party. The measuring Party shall keep the records on file for a period of twenty-four (24) months for mutual use of Company and Customer. Upon request, the measuring Party shall submit to the other Party records from such equipment, subject to return by that Party within fifteen (15) days after receipt thereof.

- 5.10 Handling of Bias or Errors. If, any of the measuring equipment or process in the aggregate is found to contain a bias, other than one associated with measurement inaccuracy and greater than one-half (1/2) percent, the correction will be made to reflect the correct volume. A correction shall be made for a period extending back to the time (not to exceed twenty-four (24) months) when such inaccuracy began, if such time is ascertainable. If not ascertainable, volume correction shall be made back to one-half (1/2) of the time elapsed since such bias or error was identified.

- 5.11 Failure of Meters. If, for any reason, the measuring equipment is out of service or out of repair so that the quantity of gas delivered through such measuring equipment cannot be ascertained or computed from the readings thereof, the quantity of gas so delivered



during the period such equipment is out of service or out of repair shall be estimated and agreed upon by Company and Customer upon the basis of the best available data, using the first of the following methods which is feasible:

- (a) By using the registration of any duplicate measuring equipment installed by the measuring Party, if installed and registering correctly;
  - (b) By correcting the error if the percentage of error is ascertainable by calibration, test or mathematical calculation;
  - (c) By using the registration of any check measuring equipment of the other Party, if installed and registering accurately;
  - (d) By estimating the quantity of deliveries by using the volumes delivered to Company or Customer, as applicable, under similar conditions during preceding periods when the measuring equipment was registering accurately.
- 5.12 Check Measuring Equipment. Each Party may install, maintain and operate at its own expense such check measuring equipment as desired; provided, however, that such equipment shall be installed so as not to interfere with the operation of any other measuring equipment. Each Party shall have access to the check meter(s) so installed by the other Party at all reasonable times, but the reading, calibration and adjusting thereof shall be done only by the employees or agents of the operator thereof.
- 5.13 New Measurement Techniques. If, at any time during the term hereof, a new method or technique is developed with respect to gas measurement or to the determination of the factors used in such gas measurement, such new method or technique may be substituted for the method set forth in this Article V when, in the opinion of Company, employing such new method or technique is advisable.

## ARTICLE VI Quality

- 6.1 Specifications - The gas received and delivered under the terms of the Agreement:
- (a) Shall be dehydrated and shall in no event have a water content in excess of seven (7) pounds of water vapor per million (1,000,000) cubic feet of gas measured at standard temperature and at a pressure base of fourteen and seven-tenths pounds per square inch absolute (14.7 psia), as determined by dew point or other moisture equipment in general use within the industry and mutually acceptable to the Parties.
  - (b) Shall not contain more than one-quarter (1/4) grain of hydrogen sulphide per one hundred (100) cubic feet of gas as determined by quantitative methods in general use within the industry and mutually acceptable to the Parties.
  - (c) Shall not contain more than five (5) grains of total sulphur per one hundred (100) cubic feet as determined by quantitative methods in general use within the

industry and mutually acceptable to the Parties.

- (d) Shall not contain more than three-quarters (3/4) grains of mercaptans per one hundred (100) cubic feet as determined by quantitative methods in general use within the industry and mutually acceptable to the Parties, except where Mercaptans are injected as odorant and then the Parties may use industry standard procedures for odorization.
- (e) Shall not contain in excess of:
  - (1) Two percent (2%) by volume of Carbon Dioxide (CO<sub>2</sub>).
  - (2) Twenty hundredths percent (0.20%) by volume of Oxygen (O<sub>2</sub>).
  - (3) Three percent (3%) by volume of Nitrogen (N<sub>2</sub>).
  - (4) Thirty-four hundredths (0.34) gallons of Propane and heavier hydrocarbons per Mcf.
  - (5) Four hundred parts per million (400 ppm) by volume of Hydrogen.
  - (6) Total inerts shall not be greater than five percent (5%) by volume.
- (f) Shall have a temperature of not more than one hundred and twenty degrees Fahrenheit (120° F.), nor less than forty degrees Fahrenheit (40° F.) except for gas at the pipeline interconnect entering into Mexico shall have minimum temperature of fifty degrees Fahrenheit (50° F).
- (g) Shall contain not less than nine hundred and fifty (950) Btu nor more than eleven hundred (1100) Btu per cubic foot of gas.
- (h) Shall be commercially free from dust, gum, gum-forming constituents, or other objectionable liquid or solid matter, which might become separated from the gas in the course of transmission through pipelines.
- (i) Shall be free of any corrosives, which in Company's sole determination may be damaging or harmful to Company's facilities.
- (j) Shall be interchangeable with Gas which is:
  - (1) In the receiving transmission facilities.
  - (2) Delivered to the nearest end user, city border station, aggregation point or other pipeline interconnected with such receiving transmission facility.
  - (3) Downstream of the Point(s) of Delivery.

6.2 Failure to Meet Quality Specifications. If, in the aggregate, the Gas received from the Point(s) of Receipt does not conform to the quality specifications prescribed in Article 6.1 above, then Company in its reasonable discretion may reject any non-conforming Gas at specific Point(s) of Receipt. If, in the aggregate, the Gas delivered to Point(s) of Delivery does not conform to the quality specifications prescribed in Article 6.1 above, the Customer, in its reasonable discretion may reject any non-conforming Gas at specific Points(s) of Delivery. Notwithstanding the foregoing, neither Party shall be liable for terminating receipt or delivery of non-conforming Gas. Acceptance by Company of non-conforming Gas at any Point(s) of Receipt does not constitute a waiver of the quality specifications set forth in Article 6.1 with respect to such Gas, any other Gas delivered under an Agreement in the future, or any claim for damages due to such failure to conform. If Customer's Gas meets the Gas quality specifications on Company's System but fails to meet the Gas quality specifications of a downstream interconnecting pipeline so that the downstream interconnecting pipeline refuses or provides notice that it will refuse to accept Gas from Company and such refusal impacts Company's System, the Company, in its discretion, may reject a nomination or curtail Customer's deliveries to Company until the Gas quality issues have been resolved.

## **ARTICLE VII** **Billing and Accounting**

7.1 Accounting Statements. On or before the twenty-fifth (25<sup>th</sup>) day of each calendar Month after commencement of Gas receipts and deliveries hereunder, Company shall render to Customer a statement for the preceding Month showing the total MMBTU of Gas received and delivered and each Point(s) of Receipt and/or Point(s) of Delivery, and any information needed to explain and support any adjustment made by Company. Any such statement (and supporting documents) may also be sent to Customer's suppliers of Gas. When information necessary for statement purposes is in the possession of Customer and is requested by the Company, Customer shall furnish such information to Company on or before the fifth (5<sup>th</sup>) business day of the Month in which the statement requiring such data is to be rendered.

- (a) Both Parties hereto shall have the right at any and all reasonable times to examine the books and records of the other to the extent necessary to verify the accuracy of any statement, computation, or demand made hereunder. Both Parties shall preserve for a period of two (2) years all test data and other similar records. If it shall be found at any time or times that Customer has been overcharged or undercharged in any form whatsoever under the provisions of the Agreement and Customer shall have actually paid the bills containing such overcharge or undercharge, then within thirty (30) days after the final determination thereof, Company shall refund the amount of any such overcharge, or Customer shall pay the amount of any such undercharge, provided, however, the late charge as calculated in Article 7.2 shall apply to any undercharge or overcharge not paid with thirty (30) days from the date of notification to the party who owes payment of the amount of the undercharge or overcharge. In the event an error is discovered in the amount billed in any statement rendered by Company, such error shall be adjusted within sixty (60) days from the date of discovery of such

error but, in any event, within twenty-four (24) months from the date of statement containing the error.

7.2 Late Payment. Should Customer fail to pay any amount due under any Agreement when such amount is due, interest on the unpaid portion shall accrue at a rate (which in no event shall be higher than the maximum rate permitted by applicable law) equal to one and one-half percent (1.5%) per Month from the due date until the date of payment. If such failure to pay continues for thirty (30) days after payment or delivery is due, Company, in addition to any other remedy it may have, may suspend further receipts and deliveries of Gas until such amount is paid or delivered; provided, however, that if Customer in good faith shall dispute in writing the amount of any such bill or part thereof and shall pay and deliver to Company such amounts as Customer concedes to be correct and, at any time thereafter within thirty (30) days of the due date of such payment, shall furnish a good and sufficient surety bond in an amount and with surety satisfactory to Company, guaranteeing payment and delivery to Company of the amount ultimately found due upon such bills, including interest thereon, after a final determination which may be reached either by agreement or judgment of the courts, as may be the case, then Company shall not be entitled to suspend further receipts and withdrawals of Gas unless and until default be made in the conditions of such bond. As an alternative to posting a bond, Customer may pay the portion of any amount in dispute which if it is ultimately determined to be incorrect, such amount shall be refunded by Company to Customer together with interest thereon at a rate (which in no event shall be higher than the maximum allowed by law) equal to one and one-half percent (1.5%) per Month for a period from the date of payment to Company to the date of refund by Company.

7.3 Due Date and Payment. On or before the twenty-fifth (25<sup>th</sup>) calendar day of each Month Company shall mail, fax or e-mail to Customer an invoice evidencing the bill for Services rendered to Customer under the executed Agreement during the preceding Month. When Customer is in control of information required by Company to prepare invoices, Customer shall cause such information to be received by Company on or before the fifth (5<sup>th</sup>) calendar day of the Month immediately following the Month to which the information applies.

Payment by Wire Transfer. Payment to Company for Services rendered during the preceding Month shall be due ten (10) calendar days from the date the invoice for such Service was issued by Company and shall be paid by Customer on or before such due date. Subject to the provisions of Article 7.3(b) below, Customer shall make such payment to Company by wire transfer in immediately available funds to a depository designated by Company. When the due date falls on a day that the designated depository is not open in the normal course of business to receive Customer's payment, Customer shall cause such payment to be actually received by Company on or before the first (1<sup>st</sup>) business day on which the designated depository is open after such due date.

Payment Other Than by Wire Transfer. In the event in any Month, that Customer does not make payment by wire transfer, then payment to Company for Services rendered during the preceding Month shall be due ten (10) calendar days from the date the invoice for such Service was issued by Company. Customer shall cause payment for such bill to

be actually received on behalf of Company at a depository designated by Company, on or before such due date. When the due date falls on a day that the designated depository is not open in the normal course of business to receive Customer's payment, Customer shall cause such payment to be received on or before the last business day on which the designated depository shall be set forth on each invoice presented to Customer.

**ARTICLE VIII**  
**Creditworthiness of Customer**

- 8.1 For existing facilities, Company shall not be required to initiate Service on behalf of any Customer or provide Service or to continue Service for any Customer who is or has become insolvent or who, at Company's request, fails within a commercially reasonable time to demonstrate creditworthiness as determined by the Company in its reasonable discretion; provided, however, Customer may receive Service if Customer furnishes good and sufficient security as determined by Company in its reasonable discretion. Unless otherwise agreed to in a Service Order, if Company has reasonable grounds for insecurity regarding the ability of Customer to perform its obligations, Company shall require Adequate Assurance of Performance. "Adequate Assurance of Performance" shall mean sufficient security in a form, amount, for a term and from an issuer all as reasonably acceptable to Company, including cash, prepayment, a standby irrevocable letter of credit or a guaranty. Upon Company's request for Adequate Assurance of Performance, Customer shall have three (3) business days to provide such Adequate Assurance of Performance as described above. If Customer fails to provide the requested Adequate Assurance of Performance within such three (3) business day period, then Company may suspend Services to Customer upon providing an additional three (3) business days' notice. For the purpose of this article, the insolvency of a Customer shall be evidenced by the filing by Customer, or any parent entity thereof, of a voluntary petition in bankruptcy or the entry of a decree or order by a court having jurisdiction over the premises adjudging Customer bankrupt or insolvent or approving, as properly filed, a petition seeking reorganization, arrangement, adjustment or composition or in respect of the Customer under the Federal Bankruptcy Act or any other applicable federal or state law or appointing a receiver, liquidator, assignee, trustee, sequestrator (or other similar official) of the Customer or of any substantial part of its property or the ordering of the winding-up or liquidation of its affairs, with said order or decree continuing unstayed and in effect for a period of sixty (60) consecutive days.
- 8.2 In the event that Company agrees to construct new facilities or to expand or extend its existing facilities, Company may require additional Adequate Assurance of Performance in a form, amount, for a term and from an issuer all as reasonably acceptable to Company and as agreed to by the Parties in a Service Order.

**ARTICLE IX**  
**Facilities**

- 9.1 **Facilities.** The measurement and appurtenant facilities required at the Point(s) of Receipt and/or Point(s) of Delivery shall be installed, owned, operated and maintained by Company, unless otherwise specified in the Agreement. It is understood and agreed that

Customer has only the right to the Service being rendered by the Company. All equipment, including (but not in any way limited thereto) all pipe, valves, fittings, and meters, comprising the Systems and all other property and capacity rights and interests, shall at all times during the term of the Agreement remain the property of Company. Customer agrees not to cause or permit any liens or encumbrances to be filed with respect to the Systems or by reason of Customer's actions. Customer's Equivalent Quantity of Gas for delivery shall at all times remain the property of Customer and Company shall have no right or property interest therein, except as otherwise provided in an Agreement.

- (a) Company reserves the right in its sole discretion to remove, relocate, expand, or rebuild, without approval of Customer, any portion of the Systems. Customer shall make no alterations, additions, or repairs to or on the Systems. Customer agrees not to connect or cause the connection of any third party to the Systems for any purpose without the express written approval and consent of Company to be granted in Company's sole discretion. If Customer breaches this condition, Company shall have the right and option, notwithstanding any other provision of the Agreement or the SOC, to terminate the Agreement, including the exhibits thereto immediately and without further obligation to Customer.
- (b) Company presently is rendering Service to third parties on the Systems and shall have the right in the future to render additional Service for such purposes and to render Service to additional third parties as it may desire, and Company shall have the right to make additional connections to the Systems as may be required to serve presently existing and new customers.
- (c) Company shall own any and all liquids, which are recovered from the Systems and may use, sell or transfer all liquids without having to account in any manner, or pay any monies or other consideration to Customer. Company agrees to receive and deliver thermally equivalent volumes of Natural Gas in connection with such Service less the applicable Fuel Use and Line Loss quantity.
- (d) Unless Company so agrees, Company will not be obligated to provide Service if it requires the construction or modification of facilities.

9.2 Inspection. Each Party shall at all reasonable times have access to the premises of the Party operating the facilities at the Point(s) of Receipt and/or Point(s) of Delivery, insofar as such premises are connected with any matter or thing covered hereby, for inspection, operation, installation, removal, repair and testing of equipment, but the operation of measuring equipment shall be done only by the Party operating said equipment at the Point(s) of Receipt and/or Point(s) of Delivery.

## **ARTICLE X** **Governmental Regulations**

10.1 General. This SOC, any Agreement and all operations hereunder are subject to all valid orders, laws rules and regulations of duly constituted State and Federal governmental authorities and agencies having jurisdiction or control over the Parties, their facilities or

Gas supplies, the Agreement, or any provision hereof. If at any time during the term of the Agreement any such governmental authority shall take any action as to any Party whereby the delivery and receipt of Gas, as contemplated herein, shall be proscribed or subjected to terms, conditions, restraints, or regulations, including rate or price controls or ceilings, that are burdensome to that Party, such determination to be made by the affected Party in its reasonable discretion, the Agreement shall be modified to the minimum extent possible so as to comply with such orders, laws, rules and regulations except for Article 10.3 below.

- 10.2 Filings. Company shall file all necessary reports and/or notices required by the RRC, and Customer shall provide Company with any necessary compliance information requested by Company in connection with preparing such reports.
- 10.3 Right of Termination. Company may cancel the Agreement within seven (7) calendar Days of Customer's receipt of Company's written notice to cancel if, at any time any governmental or regulatory authority or official having or asserting jurisdiction takes any action which, in the reasonable judgment of Company, is unduly overly burdensome; provided, however, that (i) Company may cancel the Agreement without further liability there under, other than the liability to discharge obligations theretofore accrued there under, and (ii) nothing contained herein shall preclude the Parties from renegotiating the Agreement if they so choose.
- 10.4 Customer's Warranty. Execution of the Agreement by Customer shall serve as a warranty to Company that neither it nor its designees will take any action with respect to the gas to be transported hereunder that will subject Company to the jurisdiction of the Federal Energy Regulatory Commission or any successor under the Natural Gas Act of 1938. Customer will indemnify Company and save it harmless from all suits, actions, damages, costs, losses, expenses (including reasonable attorney fees) and regulatory proceedings arising from breach of this warranty.

## **ARTICLE XI** **Priority of Service**

- 11.1 Priorities of Service. If, for whatever reason, Company is unable to transport all quantities of gas nominated by Customer under the Agreement, Company shall interrupt Service thereunder in whole or in part on all or such portions of Company's System as may be necessary, in Company's sole discretion subject to applicable laws; provided, however, that Company will act as a reasonably prudent pipeline, subject to operating necessities to interrupt Service (on that portion or portions of its System where such interruption is required) in accordance with the following schedule of priorities, beginning with the last Service to be interrupted and continuing in order as necessary to the first Service to be interrupted:
- (a) Firm Transportation Service

In the event that the Company, from time to time, does not have sufficient capacity available to accommodate all nominations through specific Point(s) of

Receipt, specific Point(s) of Delivery, specific compression stations, and/or specific segments of Company's System, interruption of Firm Transportation Service will be pro rata, or as otherwise may be required by applicable regulations or orders of a governmental or regulatory authority having jurisdiction over the Services provided hereunder.

(b) Interruptible Transportation Service

Within priority (b), interruption shall be administered so that Service under the contract with the lowest rate is interrupted first and Service under the contract with the highest rate is interrupted last.

(c) Interruptible Park and Loan Service

Interruptible Park and Loan Service shall receive the next highest priority. To the extent there is sufficient capacity to accommodate all Firm and Interruptible transportation nominations and some, but not all, of the Park and Loan nominations, capacity through the impacted location will be allocated among the Park and Loan Customers such that Service under the lowest valued contract is interrupted first and Service under the highest valued contract is interrupted last.

11.2 Operational Flow Order. Company reserves the right to issue an Operational Flow Order to alleviate conditions, inter alia, which threaten the safe operations or System integrity of the Company's System or to maintain operations required to provide efficient and reliable service.

(a) Notwithstanding any other provision of this SOC, including Sections 2.5, 2.6 and 2.7, an OFO resulting in curtailment and interruption of Service may be ordered by the Company at any time if, in Company's reasonable judgment, capacity or operating conditions so require or it is desirable or necessary to make modifications, repairs or operating changes, the conduct of which will occasion interruptions, upon such notice as is reasonable under the circumstances.

(b) In the event that a Customer or point operator does not respond to an OFO, or the actions taken thereunder are insufficient to correct the system problem for which the OFO was issued, or there is insufficient time to carry out the procedures with respect to OFO's, Company may take unilateral actions, including the curtailment of firm service, to maintain the operational integrity of Company's system (or any portion thereof).

(c) If a Customer or point operator fails to comply with an OFO it will be subject to an OFO Charge for each Dekatherm of gas by which it deviated from the requirements of the OFO. The daily OFO Charge, for the days of noncompliance, shall be based on a price per Dekatherm, by which Customer or point operator deviated from the requirements of the OFO, equal to two and one-half (2 1/2) times the midpoint of the range of prices reported under the heading "Absolute High for Texas Intrastate, Waha Area" as published in the Daily price survey in Platts Gas Daily for either the flow day on which the OFO is issued or the flow



day immediately thereafter, whichever is greater.

- (d) If Company is unable to contact any Customer or point operator because that Customer's or point operator's contact person(s) is unavailable, such Customer or point operator shall be solely responsible for any consequences arising from such failure of communications.
- (e) The payment of an OFO Charge does not create the right to exceed the levels established by an OFO.

11.3 Rate of Flow. Company shall receive and deliver Gas hereunder as nearly as practicable at uniform hourly and daily rates of flow, except as may be set forth on a Service Order. It is recognized that it may be physically impracticable, because of measurement, Gas control limitations and other operating conditions, to stay in zero (0) imbalance each hour and each Day; therefore, the daily and hourly quantities received may, due to the aforementioned reasons, vary above or below the daily and hourly quantities delivered. If the quantities delivered and the Equivalent Quantities hereunder should create an imbalance at the end of any hour, Day, Week, or Month, then Company and Customer shall adjust receipts and/or deliveries such that the difference between the quantities delivered and Equivalent Quantities shall be as near to a zero (0) imbalance as practicable.

11.4 Customer shall exercise reasonable efforts to deliver to the applicable System the MMBTU of Gas that Company is to deliver from the applicable System to Customer during any particular hour, Day, Week and Month, including but not limited to volumes needed for peak Day usage by Customer's customers.

If pursuant to the foregoing Company curtails or temporarily discontinues the receipt or delivery of Gas hereunder, Customer agrees to hold Company harmless from any loss, claim, damage, or expense that Customer may incur by reason of such curtailment or discontinuance. Company's rendering of Service hereunder shall not obligate Company in any manner beyond the terms of the Agreement and the Exhibits attached thereto.

**ARTICLE XII**  
**Possession and Odorization of Gas**

12.1 Customer is responsible for odorizing any part of the Gas delivered hereunder at the Point(s) of Delivery, which is diverted and/or used for any purpose for which odorization is required pursuant to applicable regulations, unless otherwise mutually agreed to by the Parties.

**ARTICLE XIII**  
**Title to and Responsibility for Gas**

13.1 Customer warrants title to all Gas delivered by it or for Customer's account into the Systems hereunder, and Customer warrants and represents that it has the right to deliver the Gas hereunder, and that such Gas is free from liens and adverse claims of every kind. Customer agrees to defend, indemnify and hold Company harmless from and against all

loss, damage, claims, and expense of every character with respect to Gas delivered by it on account of royalties, Taxes, payments, liens, or other charges or claims arising (1) before or created upon delivery of said Gas into the Systems, and (2) upon and after delivery of said Gas from the Systems to or for the account of Customer.

- 13.2 As between the Parties hereto, Customer or its supplier shall be deemed to be in the exclusive control and possession of the Gas until such Gas has been delivered to Company at the Point(s) of Receipt, and after its withdrawal by or for the account of Customer at the Point(s) of Delivery. After Customer's or Customer's suppliers' delivery of such Gas at the Point(s) of Receipt, Company shall thereafter be deemed to be in the exclusive control and possession of such Gas until its withdrawal by Customer at the Point(s) of Delivery. The Party that shall be in the exclusive control and possession of such Gas shall be responsible for all injury or damage caused thereby and shall be responsible for any loss of Gas while in its possession, except with regard to injury, damage or loss caused by or arising out of the negligence of the non-possessory Party.
- 13.3 The Systems shall at all times remain the property of Company, and Customer shall have no right or property interest therein but only the right for the Service to be rendered.

**ARTICLE XIV**  
**Force Majeure**

- 14.1 In the event either Party is rendered unable wholly or in part by force majeure to carry out its obligations under the Agreement, other than to make payments due there under, it is agreed that on such Party giving notice and full particulars of such force majeure in writing to the other Party as soon as possible after the occurrence of the cause relied on, then the obligations of the noticing Party, so far as they are affected by such force majeure, shall be suspended during the continuance of any inability so caused but for no longer period, and such cause shall as far as possible be remedied with all reasonable dispatch.
- 14.2 The term "force majeure" as employed herein shall include acts of God, strikes, lockouts or other industrial disturbances, acts of the public enemy, sabotage, wars, blockades, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, storms, floods, high water, washouts or other natural disasters, threat of physical harm or damage resulting in the evacuation or shut down of facilities necessary for the production or delivery or receipt or use of gas, arrests and restraints of governments and people, civil disturbances, explosions, breakage or accident to machinery or lines of pipe or facilities in which the gas is used, the necessity for testing or for making repairs or alterations to wells, machinery, facilities or lines of pipe through which the gas is moved, or freezing of wells or lines of pipe or facilities through which the gas is moved or in which the gas is used, partial or entire failure of wells, processing, gathering or Transportation facilities or gasification and gas manufacturing facilities or facilities in which the gas is used, the orders of any court or governmental authority or agency having or asserting jurisdiction or the refusal or withdrawal of any necessary order, certificate or permit by any court or governmental authority or agency having or asserting jurisdiction, any acts or omissions (including, without limitation, failure to take, transport or deliver gas) of a transporter of gas to or for Company or Customer, and any other causes, whether of the kind herein enumerated or otherwise, not reasonably within the control of the Party claiming

suspension and which by the exercise of due diligence such Party is unable to prevent or overcome. Such term shall likewise include, (a) in those instances where either Party is required to obtain servitudes, rights-of-way grants, permits, certificates or licenses to enable such Party to fulfill its obligations under the Agreement, the inability of such Party to acquire or the delays on the part of such Party in acquiring, at reasonable cost and after the exercise of reasonable diligence, such servitudes, rights-of-way grants, permits or certificates or licenses, and (b) in those instances where either Party is required to furnish materials and supplies for the purpose of constructing or maintaining facilities or is required to secure permits or permissions from any governmental agency to enable such Party to fulfill its obligations under the Agreement, the inability of such Party to acquire or the delays on the part of such Party in acquiring, at reasonable cost and after the exercise of reasonable diligence, such materials and supplies, permits and permissions.

- 14.3 The Parties agree that the settlement of strikes or lockouts shall be entirely within the discretion of the Party having the difficulty and that the above requirement that any force majeure shall be remedied with all reasonable dispatch shall not require the settlement of strikes or lockouts by acceding to the demands of the opposing person when such course is inadvisable in the discretion of the Party having the difficulty.
- 14.4 Either Party may partially or entirely interrupt its performance under the Agreement for the purpose of making necessary or desirable inspections, alterations and repairs, but only for such time as may be reasonable and unavoidable; and that Party requiring such relief shall give to the other Party reasonable notice of its intention to suspend its performance there under, except in cases of emergency where such notice is impracticable and shall endeavor to arrange such interruption so as to inconvenience the other Party as little as possible.

#### **ARTICLE XV** **Scheduling and Nominations of Gas**

- 15.1 Customer shall advise (in a method and format supplied by the Company to its Customers) Company with respect to each Day, Week and Month the name of each supplier with whom it has a contract on Company's System (and the name of the individual with such suppliers responsible for Customer's account), which source of supply is delivered to Company from each source of supply (i.e., each well, plant, or other desired Point(s) of Receipt) and the anticipated deliveries at each Point(s) of Delivery, Customer's nomination shall be in good faith and shall be based on Customer's reasonable efforts to estimate usage for that next Day, Week and Month. Customer shall not intentionally nominate more or less Gas than is needed by Customer, except as may be needed for balancing purposes. If during a Month, Customer's other supplies are renominated or reallocated, if Customer's operations are modified in any manner or if it appears that the original nominations were incorrect, the Customer shall immediately renominate to Company during such Month, but in no event shall such renomination exceed any maximum limitations established by the Parties. At intervals reasonably required by Company, Customer shall be obligated to furnish Company with schedules showing the daily MMBTU of Gas Customer desires to deliver at each Point(s) of Receipt. Company may, upon reasonable notice to Customer, from time to time modify its nomination requirements and nomination deadlines as needed to meet operational requirements or to conform to common industry practices and procedures.

- (a) Receipt and delivery nominations received from Customer shall be made available to point operators for their confirmation to deliver or receive such nominated Gas flow volumes. Point operator may confirm and schedule nominations at the lesser of the nominated volume or the volume of gas available for delivery as determined by the point operator. If no communication is received from the point operator, nominations stand as confirmed.
  - (b) Prior to the start of the flow Day, for which nominations are made by Customer, Company will confirm to Customer the amount scheduled for delivery for such Day.
  - (c) Company shall accept nominations in accordance with the North American Energy Standards Board scheduling and nominations timeline as incorporated by the Federal Energy Regulatory Commission in its currently effective regulations.
  - (d) Intra-Day nominations are those submitted after the nominations deadline to be effective for either the same Gas Day or for the next Gas Day and runs through the end of that Gas Day. A Customer may submit an intra-day nomination up to four (4) hours prior to Gas flow. Intra-Day nominations shall be scheduled after all timely nominations. Intra-Day nominations shall not bump scheduled Gas for that Gas Day unless the upstream or downstream point operator requires a change in scheduled Gas.
- 15.2 The Party performing the measurement function shall make scheduling of Point(s) of Receipt and/or Point(s) of Delivery. Subject to the provision of Article X, Section 10.1, in the event of curtailment the following priority shall be applied:
- (a) Company may initially allocate capacity to any nominations with a flow direction opposite the physical flow direction at a constrained Point(s) of Receipt and/or Point(s) of Delivery if Company determines that such nominations will create capacity at the constrained location or alleviate the constraint for the benefit of Firm Transportation Service.
  - (b) Firm Transportation Service.
  - (c) For Interruptible Transportation Service, highest contract rate.
  - (d) For Interruptible Transportation Service if the same contract rate exists between Customers, scheduling shall be on a Pro Rata basis. Rescheduling of Interruptible Transportation Service to alter the economic order of scheduling after the schedule has been issued will not be permitted.
  - (e) For Parking or Lending Service, highest economic value as determined by the Company in its sole judgment.
- 15.3 Customer's Gas shall be delivered to Customer at the Point(s) of Delivery, To the extent that Customer's acts or omissions cause Company to incur, directly or indirectly, fees, charges, expenses, or penalties from a supplier or a transporter of Gas to Company for failure to satisfy such supplier's or transporter's balancing or nomination requirements, then Customer agrees to reimburse Company for such fees, charges, expenses, or

penalties, and defend, indemnify, and hold Company harmless with respect thereto.

- 15.4 The Point(s) of Receipt and/or Point(s) of Delivery may be, or may later become points through which other quantities of gas are being measured; therefore, the measurement of gas under the Agreement may involve the allocation of Gas deliveries. In such event, each Party hereto will furnish, or cause to be furnished, to the extent the information is available, to the other Party all data required to accurately account for all Gas.
- 15.5 In no event shall Company be required to accept a request for Service for a quantity of Gas, which Company cannot meter with reasonable accuracy at the Point(s) of Receipt and/or Point(s) of Delivery. If Customer's request for Service involves a quantity, which Company cannot meter with reasonable accuracy at the requested Point(s) of Receipt and/or Point(s) of Delivery, Company will promptly so inform Customer and advise Customer of the quantity that can be metered with reasonable accuracy at the proposed Point(s) of Receipt and/or Point(s) of Delivery.
- 15.6 Customer shall make all necessary arrangements with other parties at or upstream of the Point(s) of Receipt where Natural Gas is delivered to Company by Customer or for Customer's account, and downstream of the Point(s) of Delivery where Natural Gas is to be delivered by Company to or for the account of Customer, which arrangements shall be compatible with Company's System operations and coordinated with Company's Gas control department.
- 15.7 Company shall not be required to render Service on behalf of Customer in the event that all facilities necessary to render such Services do not exist at the time such Service is scheduled to begin.
- 15.8 Company shall not be required to provide Service if Company or any of its other Customers will be required to purchase new quantities of Gas from any source or to increase purchases from existing suppliers in order to render such Service.
- 15.9 Company shall not be required to acquire, construct, install, operate, modify, maintain, continue in existence or ownership of, or rearrange any facilities specifically applicable to an individual Customer in order to provide any Service. Company may, in its reasonable discretion, and with the agreement of the Customer, agree to acquire, construct, install, operate, modify or rearrange any such necessary facilities, subject to the provisions hereof, in order to provide Service. Company's determination as to the maintenance or continued maintenance, existence or ownership of any facility shall be made in Company's reasonable discretion on a non-discriminatory basis. In the event Company agrees to acquire, construct, install, operate, modify or rearrange facilities, then Company shall have the right to condition its agreement to so acquire, construct, install, operate, modify or rearrange their facilities by requiring that Customer reimburse or compensate Company for all or part of costs associated with the acquisition, installation, construction, modification, operation, and rearrangement of such facilities.
- 15.10 Should any litigation be commenced between the Company and Customer concerning any provision of the Agreement or the rights and duties hereunder, the Party prevailing in such litigation shall be entitled, in addition to such other relief as may be granted in such proceeding, to a reasonable sum as and for its attorney's fees in such litigation or in a separate action for such purpose.

## **ARTICLE XVI**

### **Term**

- 16.1 In the event the Agreement does not provide for a term, the Agreement shall become effective on the date of its execution and shall remain in full force and effect through the end of the calendar Month in which the Agreement was executed, and thereafter for successive periods of one (1) Month unless canceled by either Party by providing to the other Party written notice of such cancellation not less than ten (10) days prior to the end of a calendar Month.

## **ARTICLE XVII**

### **Miscellaneous**

- 17.1 Customer Default. Any of the following events or conditions shall constitute a default of Customer under the Agreement:

- (a) Default in the delivery of any payment or any sums hereunder for a period of thirty (30) day after the same becomes due, provided such sums are not disputed by Customer pursuant to and in accordance with Article 7.2 hereof;
- (b) Any other breach of the material terms and conditions of the Agreement and the failure of Customer to cure such breach within thirty (30) days after written demand by Company or such longer period of time after such notice as may be reasonably required to cure such breach if the breach is not reasonably curable within such thirty (30) day period, provided that Customer shall have commenced such cure within such thirty (30) day period and thereafter diligently continues its efforts to cure such breach until such breach shall have been fully cured;
- (c) Customer shall apply (a) for or consent to the appointment of or taking of possession by a receiver or liquidator of itself or substantially all of its property, (b) make a general assignment for the benefit of its creditors, (c) commence a voluntary case under the Federal Bankruptcy Code, or (d) file a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding-up or composition or adjustment of debts of Customer;
- (d) A proceeding or case shall be commenced, without the application or consent of the affected Party, in any court of competent jurisdiction, seeking (a) liquidation, reorganization, dissolution, winding-up or composition or adjustment of debts of Customer (b) the appointment of a trustee, receiver, liquidator or custodian of such Party or of all or substantially all of its assets, or (c) similar relief under any law relating to bankruptcy or insolvency, and such proceeding or case shall continue undismissed, or an order, judgment or decree approving or ordering any of the foregoing shall be entered and continue unstayed, for a period of ninety (90) days; or
- (e) If any certificate, representation, or warranty furnished by Customer proves to be false or incomplete in any material respect.

- 17.2 Company Remedy in the Event of Customer Default. Upon the happening of any event of default as set forth in Article 17.1 above, Company shall have the right to do any one of more of the following without demand or notice of any kind:
- (a) Declare due, sue for, and receive from Customer the sum of all payments and all other amounts due and owing under the Agreement plus the sum of all payments and other amounts to become payable during the balance of the Agreement;
  - (b) Terminate the Agreement, any Service Order related thereto, and the exhibits;
  - (c) Pursue any other remedy at law or in equity.
- 17.3 Company Default. Any of the following events or conditions shall constitute an Event of Default with respect to Company under the Agreement:
- (a) Company's breach of any material term or condition of the Agreement and the failure of Company to cure such breach within thirty (30) days after written demand by Customer or such longer period of time after such notice as may be reasonably required to cure such breach if the breach is not reasonably curable within such thirty (30) day period, provided that Company shall have commenced such cure within such thirty (30) day period and thereafter diligently continues its efforts to cure such breach until such breach shall have been fully cured; or
  - (b) Company shall apply (a) for or consent to the appointment of or taking of possession by a receiver or liquidator of itself or substantially all of its property, (b) make a general assignment for the benefit of its creditors, (c) commence a voluntary case under the Federal Bankruptcy Code, or (d) file a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding-up or composition or adjustment of debts of Customer; or
  - (c) A proceeding or case shall be commenced, without the application or consent of the affected Party, in any court of competent jurisdiction, seeking (a) liquidation, reorganization, dissolution, winding-up or composition or adjustment of debts of Customer (b) the appointment of a trustee, receiver, liquidator or custodian of such Party or of all or substantially all of its assets, or (c) similar relief under any law relating to bankruptcy or insolvency, and such proceeding or case shall continue undismissed, or an order, judgment or decree approving or ordering any of the foregoing shall be entered and continue unstayed, for a period of ninety (90) days; or
- 17.4 Customer Remedy in the Event of Company Default. Upon the happening of any event of default as set forth in subparagraph 17.3(a) above, Customer shall have the right to do any one or more of the following without demand or notice of any kind:
- (a) Declare due, sue for, and receive from Company the sum of all outstanding credits and other amounts due and owing under the Agreement;
  - (b) Terminate the Agreement and any Service Order related thereto, and the exhibits;
  - (c) Pursue any other remedy at law or equity.

- 17.5 The rights granted to Company and Customer hereunder shall be cumulative as to each, and action on one shall not be deemed to constitute an election or waiver of any other right to which Company or Customer may be entitled.
- 17.6 Upon the termination of the Agreement, whether by lapse of time or otherwise, Customer will surrender any and all rights in the Systems immediately.
- (a) Company shall not be liable to Customer by reason of the failure of Company to deliver, or the Customer to receive, Natural Gas when Customer has been notified of such failure and repairs, maintenance, rebuilding, expansion, reduction, changes, or adjustment causes such failure in the System or in Company's equipment and facilities. Company will cooperate with Customer in the timing of repairs, maintenance, rebuilding, expansion, reduction, changes and adjustments to the System to cause least impact to both Parties.
  - (b) No waiver by Company or Customer of any default or the other under the Agreement shall operate as a waiver of any future default, whether of a like or different character.
  - (c) The Agreement shall be binding upon, and inure to the benefit of, the Parties hereto and their successors and assigns. Neither the Agreement nor the Exhibits attached thereto nor the rights and obligations of Customer hereunder may be assigned without the consent of Company, which consent shall not be unreasonably withheld or delayed provided that the assignee demonstrates that it is financially capable of performing the duties and obligations of Customer hereunder.
  - (d) Customer will not mortgage, create a security interest in, or encumber the Agreement, or sublet the rights granted hereby, or permit its use by others, or pledge, loan, sublet, create a security interest in, or in any other manner attempt to dispose of such rights, or permit its use by others, or suffer any liens or legal process to be incurred or levied thereon; provided, however, that Customer may grant a security interest or similar encumbrance in connection with any financing arrangement associated with Customer's facility or replacement of such credit facilities.
  - (e) The Agreement shall be interpreted under the laws of the state of Texas, excluding any law thereof directing the application of laws of another jurisdiction.
- 17.8 Informal Resolution. Customer is first encouraged to work with Company to resolve problems on an informal basis prior to filing a formal complaint.
- 17.9 Formal Resolution. In the event of an unresolved problem, Customer should submit a complaint in writing to the Company at the following address:

ONEOK WesTex Transmission, L.L.C.  
100 West Fifth Street  
Tulsa, Oklahoma 74103-4298  
Attention.: Manager – Transportation Services



The complaint should contain sufficient facts to identify the specific Agreement and/or problem involved and an explanation of why, in the Customer's opinion, the situation gave rise to the complaint. Such complaint shall state that it constitutes a complaint pursuant to the procedure.

- (a) Response Period. The Company shall respond to all complaints in writing within thirty (30) days of the date the Company received the complaint.
- (b) Additional Review. If the complaint is not resolved to the Customer's satisfaction, the Customer may request formal review by the Company's Vice President.

17.10 Mediation. Unless otherwise agreed by the Parties in the Service Order, for any dispute arising out of or relating to this Agreement for which a claim or demand is asserted that is equal to or exceeds a value of \$25,000 ("Dispute") the Parties shall endeavor to settle any such Dispute by confidential mediation under the CPR Mediation Procedure then currently in effect. Unless otherwise agreed, the Parties shall select a mediator from the CPR Panels of Distinguished Neutrals within sixty (60) days after the delivery of the initial notice of negotiation. The cost of conducting the mediation, including the fees and expenses of any mediators, as well as any expenses from the CPR Institute for Dispute Resolution, shall be shared equally by the Parties, and each Party shall bear its own costs, including any attorneys' fees or other expenses incurred in the process. Each Party is required to continue to perform its obligations under this Agreement pending final resolution of any dispute arising out of or relating to this Agreement, unless to do so would be impossible or impracticable under the circumstances. All applicable statutes of limitation and defenses based upon the passage of time shall be tolled while the procedures specified herein are pending. All mediators shall have at least ten (10) years' experience in the Natural Gas industry

17.11 LIMITATION OF LIABILITY. EXCEPT AS OTHERWISE SPECIFICALLY PROVIDED HEREIN, NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES OF ANY CHARACTER, INCLUDING BUT NOT LIMITED TO LOSS OF USE, LOST PROFITS (PAST AND FUTURE), ADDITIONAL OUT OF POCKET EXPENSES INCURRED BY EITHER PARTY, OR TORT, CONTRACT OR OTHER CLAIMS RESULTING FROM, ARISING OUT OF, IN CONNECTION WITH OR IN ANY WAY INCIDENTAL TO ANY ACT OR OMISSION OF EITHER PARTY RELATED TO THE PROVISIONS OF THIS AGREEMENT, IRRESPECTIVE OF WHETHER CLAIMS OR ACTIONS FOR SUCH DAMAGES ARE BASED UPON CONTRACT, WARRANTY, NEGLIGENCE, STRICT LIABILITY OR ANY OTHER REMEDY AT LAW OR EQUITY.

17.12 Conflict. In the event of a conflict between the terms and conditions of the Agreement, this SOC or a Service Order, the documents shall govern in the following order of priority from highest to lowest priority: (i) the SOC; (ii) the Service Order; (iii) the Agreement.