

Contract No. [M13       ]

**M13 TRANSPORTATION AND PRODUCER BALANCING SERVICE  
AND NAME CHANGE SERVICE**

**BETWEEN**

**UNION GAS LIMITED**

**AND**

**[SHIPPER NAME]**

**DATED: [Month day, year]**

**Schedule "A" Points and Pressures  
Schedule "B" Service Terms and Rates**

**M13 TRANSPORTATION AND PRODUCER BALANCING SERVICE  
AND NAME CHANGE SERVICE**

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**THIS M13 TRANSPORTATION AND PRODUCER BALANCING SERVICE AND NAME**

**CHANGE SERVICE CONTRACT** dated as of the [ ] day of [Month, year],

**BETWEEN:**

**UNION GAS LIMITED**, a company incorporated under the laws of the Province of Ontario,  
(hereinafter referred to as "Union")

**PARTY OF THE FIRST PART**

**-and-**

**[SHIPPER NAME]**, a company incorporated under the laws of the Province of Ontario,  
(hereinafter referred to as "Shipper")

**PARTY OF THE SECOND PART**

WHEREAS, Union owns and operates a natural gas transmission and storage system in southwestern Ontario, through which Union offers such services for natural gas as M13 Transportation Service with associated Producer Balancing Service and Name Change Service (herein collectively referred to as the "Services" and as defined in Article V herein);

AND WHEREAS, Shipper wishes to retain Union to provide the Services, as set out herein, and Union has agreed, subject to the terms and conditions of this Contract, to provide the Services requested;

NOW THEREFORE, this Contract witnesses that, in consideration of the mutual covenants and agreements herein contained and the exchange of one dollar (\$1.00) between the parties hereto, the payment and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

**ARTICLE I - INTERPRETATION AND DEFINITIONS**

1.01 Divisions, Headings and Index: The division of this Contract into Articles, Sections and Subsections, and the insertion of headings and any table of contents or index provided are for convenience of reference only, and shall not affect the construction or interpretation hereof.

1.02 Industry Usage: Words, phrases or expressions which are not defined herein and which, in the usage or custom of the business of the transportation, storage, and distribution or sale of natural gas have an accepted meaning shall have that meaning.

1.03 Extended Meaning: Unless the context otherwise requires, words importing the singular include the plural and visa versa, and words importing gender include all genders. The words "herein" and "hereunder" and words of similar import refer to the entirety of this Contract, including the Schedules incorporated into this Contract, and not only to the Section in which such use occurs.

1.04 Conflict: In the event of any conflict between the provisions of this Contract and those of Schedules "A" and "B" attached to it, and Union's C1 and M13 Rate Schedules, as defined below, the provisions of Schedules "A" and "B" shall prevail over the provisions of this Contract and the provisions of this Contract shall prevail over those of Schedule Union's C1 and M13 Rate Schedules.

1.05 Measurements: Units set out in Imperial measurement in parentheses beside their SI (metric) equivalent are for reference only and in the event of a conflict between SI (metric) and Imperial measurement herein, SI (metric) shall prevail.

1.06 Currency: All references to dollars in this Contract shall mean Canadian Dollars.

1.07 Schedules: Refers to the schedules attached hereto which are specifically included as part of this Contract, and include:

Schedule "A" - Points and Pressures  
Schedule "B" - Service Terms and Rates

1.08 i) "Union's C1 Rate Schedule" or the "C1 Rate Schedule" or "C1" shall mean Union's C1 Rate Schedule, (including Schedules attached thereto), or such other replacement rate schedule which may be applicable to the Services provided hereunder as approved by the Ontario Energy Board from time to time, and is incorporated into this Contract by reference as if fully set forth hereto; and,

ii) "Union's M13 Rate Schedule" or the "M13 Rate Schedule" or "M13" shall mean Union's M13 Rate Schedule, (including Schedules attached thereto), or such other replacement rate schedule which may be applicable to the Services provided hereunder as approved by the Ontario Energy Board from time to time, and is incorporated into this Contract by reference as if fully set forth hereto.

1.09 Definitions: Capitalized terms and certain other terms used in this Contract and not specifically defined shall have the meaning set forth in Schedules "A" or "B" attached hereto and/or Union's C1 Rate Schedule, General Terms & Conditions and Nominations, and/or Union's M13 Rate Schedule, General Terms & Conditions, unless the context hereof otherwise clearly requires. The following definitions shall be read and interpreted as though included in the aforementioned:

a) "Average Local Producer Heat" ("ALPH") shall mean the heat content value as set by Union, and shall be determined by volumetrically averaging the gross heat content of all produced gas delivered to the Union system by Ontario Local Producers. The ALPH shall be expressed in GJ/10<sup>3</sup>m<sup>3</sup> and may be adjusted from time to time by Union;

- b) “Contract Year” shall have the meaning defined in Union’s C1 Rate Schedule, General Terms & Conditions except for the first Contract Year which shall end on October 31, [year];
- c) “Dawn Quantity” shall mean the quantity in GJ required to have the total daily energy delivered at Dawn (Facilities) which is equal to the total daily energy supplied to Union at the Delivery Point. The Dawn Quantity shall be calculated utilizing the following factor equation:
- $$\text{Dawn Quantity} = \text{Produced Volume} \times \text{ALPH};$$
- d) “Delivery Locations” shall mean those points where Shipper shall deliver its quantities to Union and as described in Schedule “A”;
- e) “Delivery Point” shall encompass all Delivery Locations;
- f) “Distribution Demand” shall mean the varying demand for the supply of gas, as determined by Union, on Union's pipeline and distribution system for users of gas who are supplied or delivered gas by Union's pipeline and distribution system;
- g) “Firm Daily Variability Demand” shall mean the established quantity set forth in Subsection 5.02 (c) which is the permitted fluctuation in the Produced Volume which Union will provide to Shipper on a firm basis as part of the Services;
- h) “Market Quantity” shall mean the daily quantity in GJ delivered by Union to Shipper at Dawn (TCPL) (as defined in Schedule “A”);
- i) “Maximum Daily Quantity” shall mean the actual total daily quantity of gas delivered by Shipper to Union and shall be net of those quantities delivered to another local distribution company besides Union and/or those quantities delivered under an M13 agreement between Union and a third party at the Delivery Locations and as further defined in Schedule “A”;
- j) “Name Change Service” shall mean an interruptible administrative service whereby Union acknowledges for Shipper a change in title of a gas quantity from Shipper to a third party at Dawn (TCPL);
- k) “Produced Volume” shall mean the actual daily volume of gas in 10<sup>3</sup>m<sup>3</sup> delivered to Union at the Delivery Point under this Contract;
- l) “Producer Balancing Account” shall mean the gas balance held by Union for Shipper, or owed by Shipper to Union, at Dawn (Facilities), and shall equal the Dawn Quantity minus the Market Quantity. Where the Producer Balancing Account is zero or a positive number the account is in a credit position, and where the Producer Balancing Account is less than zero the account is in a debit position;
- m) “Producer Balancing Service” shall mean either Union receiving a quantity of gas from Shipper at Dawn (Facilities) and crediting Shipper's Producer Balancing Account

accordingly, and an equal quantity of gas is subsequently returned by Union to Shipper at Dawn (TCPL), at which time the Shipper's Producer Balancing Account is debited accordingly; or, Union delivering a quantity of gas to Shipper at Dawn (TCPL) and debiting Shipper's Producer Balancing Account accordingly, and an equal quantity of gas is subsequently returned by Shipper to Union at Dawn (Facilities) or Dawn (TCPL), whichever the case may be, at which time the Shipper's Producer Balancing Account is credited accordingly and is pursuant to Section 5.02;

- n) "Sales Agreement" shall mean any and or all of the Ontario Production Gas Purchase Agreement(s) entered into between Shipper and Union; and,
- o) "System Capacity" shall mean the volumetric capacity that exists from time to time within Union's pipeline and distribution system which determines Union's ability to accept volumes of gas into Union's pipeline and distribution system hereunder. System Capacity shall be determined by Union and such determination, in addition to the physical characteristics of Union's pipeline and distribution system Distribution Demand, shall also include consideration of Union's local Distribution Demand, Union's total system Distribution Demand, availability of Union's gas storage capacity, and other gas being purchased and/or delivered into Union's pipeline and distribution system.

## **ARTICLE II - GENERAL TERMS & CONDITIONS**

2.01 The General Terms & Conditions for the Services provided under this Contract will be those specified in Schedule "A" of Union's M13 Rate Schedule (hereinafter referred to as the "General Terms & Conditions"). The General Terms & Conditions, as specified, are hereby incorporated into and form an integral part of this Contract by reference, as if fully set forth hereto. For purposes of the General Terms & Conditions, all references to "Customer" shall be deemed to be references to Shipper.

## **ARTICLE III - CONDITIONS PRECEDENT**

3.01 The following conditions precedent shall be satisfied or waived by the party benefiting from the condition, subject to Section 3.03 herein, before the commencement of service obligations hereunder:

### **i) Conditions benefiting Union:**

- (a) Union shall have obtained the governmental, regulatory and other approvals or authorizations that are required to enable Union to render the Services contemplated herein, and to render an account in accordance with the provisions of this Contract, including the Schedules attached hereto;
- (b) Union shall, where applicable, have obtained all internal and external approvals including the governmental, regulatory and other approvals or authorizations required to construct any facilities necessary to provide the Services hereunder, which approvals and authorizations, if granted upon conditions, shall be conditions satisfactory to Union;

- (c) Union shall, where applicable, have completed those facilities necessary to provide the Services hereunder;
- (d) Shipper shall provide Union with the requisite security or financial assurances reasonably necessary to ensure Shipper's ability to honour the provisions of this Contract as determined solely by Union. Such security or financial assurances will be in a form and amount acceptable to Union;

ii) Conditions benefiting Shipper:

- (e) Shipper shall, as required, have entered into the necessary contracts with Union and/or others to facilitate the movement of gas to and from Union, and the Services contemplated herein;
- (f) Shipper shall, where applicable, have received the governmental, regulatory and other approvals or authorizations that are required from the United States of America ("U.S.A.") and from Canada for the gas quantities handled under this Contract, which authorizations if granted upon conditions, shall be conditions satisfactory to Shipper;
- (g) Shipper shall have cancelled or renegotiated its Sales Agreement, on terms satisfactory to Union;
- (h) In the event that a gas meter station must be constructed and/or installed in order to give effect to this Contract, Shipper agrees to pay Union for a portion, as determined by Union, of Union's actual cost, as hereinafter defined, for constructing and installing such station. Shipper also agrees to pay the actual costs to connect such station to Union's pipeline. Shipper's financial contribution for the actual costs related to the construction, installation and connection of such station, shall be herein referred to as an Aid to Construction. Union shall advise Shipper as to the need for a gas meter station and shall provide Shipper with an estimate of the Aid to Construction. Such Aid to Construction shall include the costs of all pipe, fittings and materials, third party labour costs and Union's direct labour, labour saving devices, vehicles and mobile equipment, but shall exclude the purchase costs of gas pressure control equipment and gas meters installed by Union; and,
- (i) Further to Subsection 3.01 (h) herein, Shipper shall pay to Union a payment ("First Prepayment") towards the Aid to Construction at the time of the execution of this Agreement. Shipper shall pay a payment prior to installation of the meter station ("Second Prepayment"). The foregoing payments are specified in the attached Schedule "A" for the first meter station ("Delivery Location #1") to be installed under this contract. Payments for additional meter stations will be handled by written mutual agreement between the parties. Shipper shall pay Union the difference if the actual Aid to Construction is more than the Prepayments, within thirty (30) days of the delivery of an invoice from Union on which the actual costs for construction and installation of facilities are stated. Union shall pay Shipper the difference if the actual Aid to Construction is less than the Prepayments. In the event Shipper terminates this Agreement prior to Union incurring any costs related to the construction, installation or connection of the meter station, Shipper's Prepayments shall be returned to Seller, without interest, within fifteen

(15) days notice to Union of such termination by Shipper. In the event Union has incurred costs, as set out herein, relative to the construction, installation or connection of the meter station prior to being notified by Shipper of Shipper's intention to terminate the Agreement, Union shall deduct such actual costs from Union's return of Shipper's Prepayments. "Prepayments" shall mean the sum of the First Prepayment and the Second Prepayment.

3.02 Union and Shipper shall each use due diligence and reasonable efforts to satisfy and fulfil their respective conditions precedent specified in Section 3.01. Each party shall notify the other forthwith in writing of their respective fulfilment or waiver of such conditions.

3.03 In the event that the conditions precedent, as specified in Section 3.01 are not satisfied, waived by the party deriving the benefit from that condition precedent with Union's consent, or extended by mutual agreement, by [Month day, year], then the parties hereto shall, upon seven (7) days written notice by either party, be released from all their obligations hereunder, and this Contract shall thereupon be terminated.

#### **ARTICLE IV - TERM OF CONTRACT**

4.01 This Contract shall be effective as of the date of execution hereof; however, the service obligations, terms and conditions hereunder shall, subject to Article III, commence on the later of [Month day, year], or, if applicable, the day following the date that the conditions precedent in Section 3.01 are satisfied or waived. This Contract shall continue in full force and effect on a year to year basis, subject to two (2) months prior notice of termination being given by either party to the other, in accordance with the provisions of this Contract and subject to Sections 4.02 and 4.03, prior to the end of any Contract Year.

4.02 In the event that this Contract is terminated pursuant to Section 4.01, the parties hereto agree that they shall continue to be bound by the terms and conditions set forth herein for the purpose of determining the actual quantities in Shipper's Producer Balancing Account, subject to Union's M13 Rate Schedule, General Terms & Conditions, Article IX. Such extended period of time shall not exceed one (1) year from the date of termination of this Contract.

4.03 For the purpose of completing a final determination of the actual quantities of gas handled in any of the Services to Shipper, this Contract shall be deemed to be in effect for an extended period equal to the time during which the companies, that transport the gas contemplated herein for Union and Shipper, retain the right to amend their statements. Such extended period of time shall not exceed three (3) years from the date of termination of this Contract.

#### **ARTICLE V - SERVICES**

5.01 Union agrees to accept delivery of the Produced Volume, on a reasonable efforts basis, at the Delivery Point provided that:

- (a) Union has sufficient System Capacity to receive the gas offered for delivery by Shipper; and,

- (b) the quality of such gas meets the Terms and Conditions as set forth in Union's M13 Rate Schedule, General Terms & Conditions, Article II.

Union further agrees to deliver each day at Dawn (Facilities) the Dawn Quantity on the same day as Shipper delivers the Produced Volume.

Union shall also deliver at Dawn (TCPL) a Market Quantity provided Shipper has tendered its daily quantity nomination to Union so that it is received in accordance with Schedule "B" of Union's C1 Rate Schedule.

5.02 Union and Shipper acknowledge that this Contract shall be governed by the following principles:

- (a) on an ongoing basis during each Contract Year the total Dawn Quantity shall equal the total Market Quantity, and Union and Shipper shall each use their reasonable efforts to achieve this;
- (b) Shipper agrees that on each day 100% of the Maximum Daily Quantity will be delivered to Union as Produced Volume;
- (c) Union and Shipper acknowledge that it is impractical for Shipper to nominate the Produced Volume to Union. Union shall retroactively calculate the Produced Volume. Union has agreed to provide a Producer Balancing Service. Union agrees to either receive a quantity of gas from Shipper at Dawn (Facilities) which shall equal the Dawn Quantity less the Market Quantity, where such amount is greater than zero, and credit the Producer Balancing Account; or, to deliver a quantity of gas to Shipper which shall equal the Market Quantity less the Dawn Quantity, where such amount is greater than zero, and debit the Producer Balancing Account, such quantity of gas on a retroactive basis, on the terms and conditions contained in Schedule "B" attached hereto, as may be revised from time to time by Union;
- (d) Except under that circumstance where Shipper purchases third party gas to correct a debit position in the Producer Balancing Account, the only quantities that shall be debited or credited under the Producer Balancing Account are the Dawn Quantity. Any gas that may be purchased to correct a debit position as herein provided, shall be delivered to Union at Dawn (TCPL); and,
- (e) Union agrees, on any day, to effect a name change immediately downstream of Union's facilities at Dawn (TCPL) for any quantity of gas which Shipper may deliver and which Union has authorized for Name Change Service. Shipper and/or its designate shall ensure that Union is notified of the names of the parties underlying this transaction, which name change(s) Union shall confirm to all relevant transporters (including Union). Union will not provide the Name Change Service unless the party to which the gas is being transferred has executed a valid Union approved Interruptible Service Hub Contract and has made a Service Hub nomination with Union, or has properly nominated under other contracts in place with Union.

5.03 Accounting for Services: All quantities of gas handled by Union shall be accounted for on a daily basis. Services provided hereunder shall be in accordance with the prescribed nominations procedures herein, and shall be interruptible in nature and subordinate to any and all firm services supplied by Union.

5.04 Commingling: Union shall have the right to commingle the quantity of gas referenced herein with gas owned by Union or gas being stored and/or transported by Union for third parties.

#### **ARTICLE VI - FORCE MAJEURE**

6.01 Pursuant to the terms of Sections 5.01 and 5.02, an event of force majeure on Union's system, as defined in Schedule "A" of Union's C1 Rate Schedule, will excuse a delay in either the delivery of the gas by Union or the acceptance of receipt of the gas by Union hereunder, and will extend the time required for Union's or Shipper's obligation to be fulfilled on a day for day basis. If Union is prevented, by reason of an event of force majeure, from delivering gas to Dawn on the day or days upon which Union has accepted gas from Shipper at the Delivery Point, Union shall thereafter make all reasonable efforts to deliver such quantities as soon as practicable and on such day or days as are agreed to by Shipper. Union shall also suspend any charges to be levied against Shipper on a day for day basis until the impact of the days of delay caused by the force majeure has been accommodated.

6.02 It is understood and agreed that the settlement of strikes and lockouts shall be entirely within the discretion of the party whose labour force is on strike, 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 any opposing person when such course is inadvisable in the discretion of the party whose labour force is on strike.

#### **ARTICLE VII - SERVICE CURTAILMENT**

7.01 Excepting instances of emergency, Shipper and Union agree to give at least twenty-four (24) hours verbal notice before a planned curtailment of receipt or delivery, shut-down or start-up.

- 7.02
- (a) Shipper shall complete and maintain a plan which depicts all of the Shipper's gas production facilities including all emergency shut off valves and emergency equipment. Shipper shall provide to Union the names and telephone numbers of those persons whom Union may contact in the event of an emergency situation arising within the Shipper's facilities.
  - (b) In the event that Union is notified by a third party or if Union becomes aware of an emergency situation in which Shipper's gas well, pipeline or associated equipment is involved, Union shall immediately notify Shipper or Shipper's representative of such emergency condition.
  - (c) Union shall have the right, at all times, to reconstruct or modify Union's pipeline and the pressure carried therein, notwithstanding that such reconstruction or modification may reduce Union's System Capacity available to receive Shipper's gas, or Shipper's ability to deliver gas to Union. Should Union expect any such reconstruction or modification to

reduce the delivery or receipt of gas by either party, Union will, where able, provide Shipper with six (6) months notice or as much notice as is reasonably practical in the circumstances. Union shall use reasonable efforts to assist the Shipper in meeting its obligated Market Quantity in these circumstances.

### **ARTICLE VIII - CHARGES AND RATES**

8.01 The charges and rates to be billed by Union and paid for by Shipper for the Services provided under this Contract and as agreed to by the parties, will be those specified in Schedule “B” attached hereto, as may be revised from time to time by Union, upon notice to Shipper.

8.02 Prices exclude, and Shipper shall pay, any applicable Goods and Services Tax or other taxes, royalties or levies (including but not limited to charges under any form of cap and trade, carbon tax, or similar system) imposed currently or subsequent to the execution of this Contract.

8.03 Set Off: If Shipper shall, at any time, be in arrears under any of its payment obligations to Union, under this Contract, or otherwise indebted to Union, then Union shall be entitled to reduce the amount payable by Union to Shipper under this Contract by an amount equal to the amount of such arrears or other indebtedness to Union. In addition to the foregoing remedy, Union may, upon forty-eight (48) hours verbal notice, take possession of any or all of Shipper's gas under this Contract and any enhancements to this Contract, which shall be deemed to have been assigned to Union, to reduce such arrears or other indebtedness to Union.

### **ARTICLE IX - PRESSURES**

9.01 For Services provided pursuant to Article V hereof:

- a) Receipts of gas by Union for the account of Shipper, at the Delivery Point, shall be made at pressures in accordance with Schedule “A” attached hereto;
- b) Deliveries of gas by Union for the account of Shipper, at Dawn (Facilities), shall be made at pressures in accordance with Schedule “A” attached hereto.

The pressure of the gas delivered by Shipper to Union at the Delivery Locations shall be sufficient to move gas into Union's pipeline but may not exceed the corresponding Maximum Allowable Operating Pressure (“MAOP”) of Union's pipeline and distribution system as specified in Schedule “A”, which Union may change from time to time. Union shall provide to Shipper six (6) months notice of such change in accordance with the provisions of Subsection 7.02 (c). In any event, the MAOP of Union's pipeline shall not exceed 6,895 kPa gauge.

### **ARTICLE X - MEASUREMENT, QUALITY AND EQUIPMENT**

10.01 The quality of the gas and the measurement of the gas to be received by Union and delivered to Shipper hereunder is to be of a merchantable quality and in accordance with the quality standards and

measurement standards as set out by Union in Union's M13 Rate Schedule, General Terms & Conditions, Article II, but, Union will use reasonable efforts to accept gas of a quality that may deviate from the quality standards set out therein.

10.02 Union shall provide, at the Delivery Locations, according to the terms hereunder, the meter station required to receive and measure the Maximum Daily Quantity of gas received by Union from Shipper. Shipper agrees, if requested by Union, to provide Union with sufficient detailed information regarding Shipper's current and expected operations in order to aid Union in Union's design of the meter station.

10.03 Pursuant to Section 10.02, Union shall purchase, install and maintain, at the Delivery Locations:

- (a) a meter and any associated recording gauges as are necessary; and,
- (b) a suitable gas odourizing injection facility where Union deems such facility to be necessary.

10.04 All equipment installed by Union at the Delivery Locations shall remain the property of Union at all times notwithstanding the fact that it may be affixed to Shipper's property. Union shall be entitled to remove said equipment at any time within a period of sixty (60) days from any termination or expiry of this Contract. Shipper shall take all necessary steps to ensure Union may enter onto the Delivery Locations to remove such equipment for a period of sixty (60) days after termination or expiry of this Contract or the Sales Agreement.

10.05 Upon Union's request Shipper shall, at Shipper's own cost and expense:

- (a) obtain a registered lease or freehold ownership at the Delivery Locations sufficient to provide Union with free uninterrupted access to, from, under and above the Delivery Locations, for a term (and extended terms) identical to this Contract, plus sixty (60) days, and shall provide Union with a bona fide copy of such lease agreement prior to Union commencing the construction of the gas purchase meter station;
- (b) furnish, install, set, and maintain suitable pressure and volume control equipment and such additional equipment as required on Shipper's delivery system, to protect against the overpressuring of Union's facilities, as set out in Section 9.01, and to limit the daily flow of gas to the corresponding Maximum Daily Quantity as set out in Schedule "A" attached hereto;
- (c) supply, install and maintain a gravel or cut stone covering on each Delivery Location and shall maintain such Delivery Locations in a safe and workmanlike manner; and,
- (d) install and maintain a fence satisfactory to Union around the perimeter of each Delivery Location which will adequately secure and protect Union's equipment therein.

10.06 Shipper shall within thirty (30) days of the delivery of an invoice by Union, reimburse Union for any actual costs reasonably incurred by Union: for any repair, replacement, relocation, or upgrading of any meter station requested by Shipper or as required by law, duly constituted regulatory body, or

through good engineering practice. Union shall be responsible for any costs incurred by Union to correct an error made by Union.

#### **ARTICLE XI - NOMINATIONS**

11.01 Nominations shall be pursuant to Schedule “B” of Union’s C1 Rate Schedule.

#### **ARTICLE XII - SHIPPER'S REPRESENTATIONS AND WARRANTIES**

12.01 Shipper’s Warranty: Shipper warrants that it will, if required, maintain, or have maintained on its behalf, such certificates, permits, licenses and authorizations from regulatory bodies or other governmental agencies in the U.S.A. and Canada, as the case may be, as are necessary to enable Shipper, or others designated by Shipper, to deliver to Union at the Delivery Point and to export from the U.S.A. and import and deliver into Canada and/or export from Canada and import and deliver into the U.S.A., the quantities of gas to be handled by Union under this Contract. Shipper further warrants that it shall maintain the necessary contracts with Union and/or others to facilitate the Services contemplated herein.

12.02 Financial Representations: Shipper represents and warrants that the financial assurances and representations provided to Union at the commencement of this Contract (if any) shall remain in place throughout the term hereof. Shipper shall notify Union in the event of any changes to the financial assurances and representations throughout the term hereof. Should Union, acting reasonably, solely determine that Shipper's financial condition warrants such, Shipper shall within fourteen (14) days of receipt of such notice by Union, obtain and provide to Union a letter of credit or other security in the form and amount reasonably required by Union (the “Security”). In the event that Shipper does not provide to Union such Security, Union may deem a default in accordance with the provisions of Section 13.03 herein.

#### **ARTICLE XIII - MISCELLANEOUS PROVISIONS**

13.01 Assignment: This Contract shall extend to and be binding upon the parties hereto and each of them, their respective heirs, executors, administrators, successors and assigns, provided that this Contract shall not be assigned by Shipper, without the express written consent of Union, which shall not be unreasonably withheld, provided that Shipper shall have the right to include its interest in this Contract in any mortgage, charge or security for the purpose of financing its gas producing operations on Shipper's lands.

13.02 Notices: Subject to the express provisions of this Contract, all communications provided for or permitted hereunder shall be in writing, personally delivered to an officer or other responsible employee of the addressee or sent by registered mail, charges prepaid, or by facsimile or other means of recorded telecommunication, charges prepaid, to the applicable address set forth below or to such other address as either party hereto may from time to time designate to the other in such manner, provided that no communication shall be sent by mail pending any threatened, or during any actual, postal strike or other disruption of the postal service. Any communication personally delivered shall be deemed to have been validly and effectively received on the date of such delivery. Any communication so sent by facsimile or other means of telecommunication shall be deemed to have been validly and effectively received on the

business day following the day on which it is sent. Any communication so sent by mail shall be deemed to have been validly and effectively received on the seventh business day following the day on which it is postmarked.

Communications to the parties hereto shall be directed as follows:

IF TO SHIPPER: [Redacted]

Nominations: Attention: [Redacted]  
Telephone: - -  
Facsimile: - -

Secondary Contact: Attention: [Redacted]  
Telephone: - -  
Facsimile: - -

IF TO UNION: Union Gas Limited,  
50 Keil Drive North,  
CHATHAM, ON N7M 5M1

Nominations: Attention: Manager, Gas Control  
Telephone: 519-436-5217  
Facsimile: 519-436-4635

Secondary Contact: Attention: Senior Buyer, Gas Supply  
Telephone: 519-436-[Redacted]  
Facsimile: 519-436-4643

Notwithstanding the above, nominations shall be made by facsimile or other recorded electronic means, subject to execution of the “Agreement for Use of the Secured Portion of Union Gas Limited’s Website,” or such other agreement, satisfactory to Union, and will be deemed to be received on the same day and same time as sent. Each party may from time to time change its address for the purpose of this Section by giving notice of such change to the other party in accordance with this Section.

13.03 Default and Termination: Any breach of a material term or condition of this Contract shall constitute an “Event of Default”, and upon written notification thereof by the non-defaulting party, the default shall be remedied with due diligence, and the defaulting party shall indemnify the party not in default for all damages and expenses.

Excepting circumstances of force majeure, in the event that either party is in breach of any material term or condition of this Contract, the other party may give written notice to the party in breach requiring it to remedy such breach. If the party in breach fails to remedy the breach within thirty (30) days of receipt of such notice, the other party may, at its sole option, upon seven (7) days written notice to the party in breach, terminate this Contract. Termination pursuant to this Section 13.03 shall not affect any liabilities

accrued to the date of termination or thereafter and the right of termination shall be in addition to any other right or remedy available at law.

No waiver by or on behalf of either party hereto of any breach of any covenant, proviso, condition, restriction or stipulation herein contained, negative or positive in form, shall take effect or be binding upon such party, unless the same be expressed in writing by such party or its duly authorized agent on its behalf, and any waiver so expressed shall not limit or affect such party's rights with respect to any other or similar future breach.

13.04 Guiding Laws: All operations hereunder of both parties to this Contract shall be subject to any applicable laws, taxes, orders, rules and regulations of any governmental authority having jurisdiction therein, now or hereafter in effect during the term of this Contract.

13.05 Law of Contract: Union and Shipper hereto agree that this Contract is made in the Province of Ontario and that the courts of the Province of Ontario shall have exclusive jurisdiction in all matters contained herein. The parties further agree that this Contract shall be construed exclusively in accordance with the laws of the Province of Ontario.

13.06 Possession of Gas:

- a) Union accepts no responsibility for any gas prior to such being delivered to Union at the Delivery Point or at Dawn (TCPL), whichever the case may be, and after its delivery by Union at Dawn (TCPL). As between the parties hereto, Union shall be deemed to be in control and possession of and responsible for all such gas from the time that such gas enters Union's pipeline and distribution system until such gas is delivered to Shipper.
- b) Shipper and Union shall each indemnify and hold the other harmless against any and all suits, actions, debts, accounts, damages, costs, losses and expenses caused by or resulting from its control and possession of the gas transported, balanced and name changed hereunder.

13.07 Title to Gas: Shipper represents and warrants that it will at the time of delivery of the gas to Union, (a) possess a licence to produce gas in the Province of Ontario, (b) have good and valid title to all gas delivered by Shipper under this Contract, free and clear of all liens, encumbrances and claims whatsoever at Dawn (TCPL), and (c) have good and valid title or legal authority to all gas delivered by it under this Contract, free and clear of all liens, encumbrances and claims whatsoever at the Delivery Point. Shipper will indemnify Union and save Union harmless from all suits, actions, debts, accounts, damages, costs, losses and expenses arising from or out of adverse claims of any and all persons to said gas or to royalties, taxes, licence fees or any charges thereon, which are applicable before the possession of gas passes to Union.

13.08 Entire Contract: This Contract constitutes the entire agreement between the parties hereto pertaining to the subject matter hereof. This Contract supersedes any prior or contemporaneous agreements, understandings, negotiations or discussions, whether oral or written, of the parties in respect of the subject matter hereof.

13.09 Time of Essence: Time shall be of the essence hereof.

13.10 Counterparts: This Contract may be executed in any number of counterparts, each of which when so executed shall be deemed to be an originally executed copy, and it shall not be necessary in making proof of this Contract to produce all of such counterparts.

13.11 Amendments and Waivers: No amendment or waiver of any provision of this Contract nor consent to any departure of either party hereto shall in any event be effective unless the same shall be in writing and signed by each of the Shipper and Union and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which it was given. No failure on the part of Shipper or Union to exercise, and no course of dealing with respect to, and no delay in exercising, any right, power or remedy under this Contract shall operate as a waiver thereof.

13.12 Severability: If any provision hereof is invalid or unenforceable in any jurisdiction, to the fullest extent permitted by law, (a) the other provisions hereof shall remain in full force and effect in such jurisdiction and shall be construed in order to carry out the intention of the parties as nearly as possible and (b) the invalidity or unenforceability of any provision hereof in any jurisdiction shall not affect the validity or enforceability of any provision in any other jurisdiction.

13.13 General Liability: The liability of the parties hereunder is limited to direct damages only and all other remedies or damages are waived. In no event shall either party be liable for consequential, incidental, punitive, or indirect damages, in tort, contract or otherwise.

THIS CONTRACT SHALL BE BINDING UPON and shall ensure to the benefit of the parties hereto and their respective successors and permitted and lawful assigns.

IN WITNESS WHEREOF this Contract has been properly executed by the parties hereto by their duly authorized officers as of the date first above written.

**UNION GAS LIMITED**

**[SHIPPER]**

*I have authority to bind Shipper*

\_\_\_\_\_

\_\_\_\_\_

Title:

Contract No. M13 [REDACTED]

**POINTS AND PRESSURES**

**The following defines each of the Delivery Locations:**

Delivery Location #1: [redacted] The gas wells metered by Union's delivery meter located at [Lot [redacted], Concession [redacted], [redacted] Township, [redacted] County, Province of Ontario, Station # [redacted]]

Field Contact/Emergency Contact: [redacted]

Telephone	-	-
Mobile	-	-
Facsimile	-	-

**Maximum Daily Quantity:** Shipper agrees to limit the quantity of gas delivered to Union in any one day at the Delivery Location as hereinafter stated:

Delivery Location #1 shall have a maximum daily delivery of [redacted] 10<sup>3</sup>m<sup>3</sup> of gas.

**The following defines those points where Union shall deliver the Dawn Quantity and/or Market Quantity:**

**DAWN (TCPL):**

At the junction of Union's and TCPL's facilities, at or adjacent to Dawn (Facilities).

**DAWN (FACILITIES):**

Union's Compressor Station site situated in the northwest corner of Lot Twenty-Five (25), Concession II, in the Township of Dawn-Euphemia, in the County of Lambton. This point is applicable for quantities of gas that have been previously transported or stored under other contracts that Shipper may have in place with Union.

**PRESSURES**

**DELIVERIES BY SHIPPER:** Shipper's MAOP at each Delivery Location shall be as follows:

At Delivery Location #1 MAOP is [REDACTED] kPa.

**DELIVERIES BY UNION:**

**DAWN (TCPL):** Deliveries by Union shall be made at a pressure of not greater than 4,825 kPa.

**DAWN (FACILITIES):** Deliveries by Union shall be made at a pressure of not greater than 4,825 kPa.

**MODIFIED WATER VAPOUR REQUIREMENT:**

At Delivery Location #1 Maximum Water Vapour Content is 230 MG per M<sup>3</sup> (14 Lbs./MMCF).

Both Parties agree that should Union at any time experience malfunctioning of or deterioration of the measurement equipment, Gas control equipment, or other appurtenance, in Union's pipeline system or should Union's customers experience problems with the combustion or usage of Gas in their Gas burning equipment due to excessive moisture content, Union at its sole discretion may reduce the maximum water vapour requirement for Gas delivered under the Agreement to that which is specified in Article II, Clause II 2(h), Quality of the Agreement. In the event Union reduces the maximum water vapour requirement to that which is specified in Article II, Clause II 2(h), Union shall continue to purchase Shipper's Gas at 230 MG per M<sup>3</sup> (14 Lbs./MMCF) for ninety (90) days after such notice. Upon the termination of such ninety (90) days Shipper's Gas must meet Article II, Clause II 2(h) requirements.

**PREPAYMENT**

The Prepayments for Delivery Location #1 as specified in Article 3, Clause 3.01 (i) are as follows:

The First Prepayment upon execution of this Agreement is \$ [REDACTED] [currency].

The Second Prepayment prior to installation of Delivery Location #1 is \$ [REDACTED] [currency].