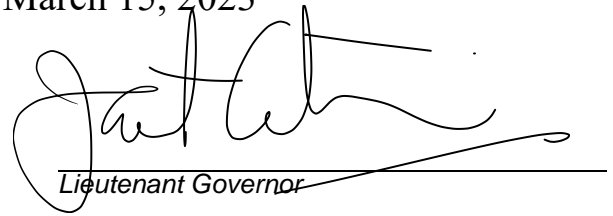


PROVINCE OF BRITISH COLUMBIA

ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL

Order in Council No. 177

, Approved and Ordered March 15, 2023



Lieutenant Governor

**Executive Council Chambers, Victoria**

On the recommendation of the undersigned, the Lieutenant Governor, by and with the advice and consent of the Executive Council, orders that Direction No. 5 to the British Columbia Utilities Commission, B.C. Reg. 245/2013, is amended as set out in the attached Schedule.



Energy, Mines and Low Carbon Innovation



Presiding Member of the Executive Council

*(This part is for administrative purposes only and is not part of the Order.)*

**Authority under which Order is made:**

Act and section: *Utilities Commission Act*, R.S.B.C. 1996, c. 473, s. 3

Other: OIC 557/2013

R10551717

## SCHEDULE

**1** *Section 1 (1) of Direction No. 5 to the British Columbia Utilities Commission, B.C. Reg. 245/2013, is amended by adding the following definition:*

**“transportation agreements”** means the transportation agreements as set out in Appendix 4.1 attached to this direction; .

**2** *Section 6 is amended*

*(a) by repealing subsection (1), and*

*(b) by adding the following subsection:*

(1.1) Within 60 days after the date this subsection comes into force, the commission must issue an order setting the transportation rate schedule as a rate for FortisBC Energy Inc., effective on the date the order is issued.

**3** *The following section is added:*

### **Transportation rate schedule – transportation agreements**

**6.1** (1) Within 60 days after the date this subsection comes into force, the commission must issue an order setting the transportation agreements as rates for FortisBC Energy Inc., effective on the date the order is issued.

(2) Section 5 (2) applies to the transportation agreements.

**4** *Appendix 4 is repealed and the attached Appendix 4 is substituted.*

**5** *The attached Appendix 4.1 is added.*

## APPENDIX 4



FORTISBC ENERGY INC.

RATE SCHEDULE 50  
LARGE VOLUME INDUSTRIAL TRANSPORTATION

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## 1. Definitions

1.1 **Definitions.** Except where the context otherwise requires, the following terms when used in this Rate Schedule or in the Transportation Agreement shall have the following meanings:

- (a) **Affiliate** – means, in relation to FortisBC Energy or the Shipper, any Person that, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, that Party where “control” means, with respect to the relationship between two or more Persons, the possession, directly or indirectly or as trustee, personal representative or executor, of the power to direct or cause the direction of the affairs or management of a Person, including through the direct or indirect ownership of voting securities, as trustee, personal representative or executor, by statute, contract, credit arrangement or otherwise.
- (b) **Authorized Quantity** – means the quantity of Gas for each Day approved by the Transporter for transportation service on the Transporter’s pipeline system, based on the quantity requested and adjusted pursuant to Section 4 (Requested Quantity and Authorized Quantity).
- (c) **BCUC** – means the British Columbia Utilities Commission continued pursuant to the *Utilities Commission Act, R.S.B.C. 1996 c.473*, or such successor or other entity as may be designated according to the laws of the Province of the British Columbia to carry out the functions of the BCUC in respect of the regulation of public utilities.
- (d) **Business Day** – means any day, excluding Saturdays, Sundays and statutory holidays in British Columbia.
- (e) **Carbon Tax** – means, in connection with any System Gas delivered by the Shipper to FortisBC Energy at the Receipt Point under this Rate Schedule and the Transportation Agreement, any amounts payable: (i) under the Carbon Tax Act (British Columbia) or any successor or replacement legislation; (ii) for any offsets, credits, allowances, rights to discharge greenhouse gases, renewable electricity certificates or other commodities which must be obtained and/or retired under applicable law to offset all or part of the greenhouse gas emissions or other environmental attributes of the System Gas; or (iii) to satisfy any payments required to be made under applicable law, of whatever kind, the value of which is determined in whole or in part by the greenhouse gas emissions or other environmental attributes of the System Gas.
- (f) **Commencement Date** – means the date, on or after the Effective Date on which Firm Transportation Service commences, as set out in the Transportation Agreement provided that the Commencement Date shall not occur before the amalgamation of FortisBC Energy and FortisBC Energy (Vancouver Island) Inc. pursuant to the Business Corporations Act (British Columbia).

- (g) **Commodity Toll** – means the commodity toll, expressed in dollars per gigajoule, charged under this Rate Schedule for costs incurred by FortisBC Energy, in respect of Firm Transportation Service and Interruptible Transportation Service, as allocated to the Shipper by FortisBC Energy, acting reasonably, which may include:
- (i) any excise or other taxes payable by FortisBC Energy in respect of System Gas, including taxes payable under the *Motor Fuel Tax Act* (British Columbia) and any Carbon Tax payable by FortisBC Energy in respect of System Gas;
  - (ii) any excise or other taxes payable by FortisBC Energy in respect of Shipper's Gas transported and delivered through the System;
  - (iii) odorant costs incurred by FortisBC Energy in respect of Shipper's Gas transported and delivered through the System; and
  - (iv) any costs incurred by FortisBC Energy for electricity used for the compression of Gas in connection with the transportation and delivery of Shippers' Gas through the System.
- (h) **Contract Demand** – means the quantity of Gas set out in a Transportation Agreement in respect of which FortisBC Energy is obligated to provide Firm Transportation Service, provided that if FortisBC Energy reasonably determines in respect of any Day or future period that the volume-weighted average heat content for all Gas received on the System during that Day or future period is or is reasonably likely to be less than 38 GJ / 10<sup>3</sup>m<sup>3</sup>, then FortisBC Energy may by written notice to the Shipper adjust the Contract Demand for that Day or future period to an amount measured in GJ that FortisBC Energy reasonably estimates at the time of such adjustment will allow FortisBC Energy to deliver to the Shipper the volumetric equivalent in 10<sup>3</sup>m<sup>3</sup> per Day of the Contract Demand, as set out in the Transportation Agreement.
- (i) **Creditworthy** – means, in respect of any Shipper, that:
- (i) has been issued a credit rating by one or more of DBRS, Moody's or S&P on its senior unsecured long-term debt ("long-term debt rating") that is equivalent to or better than the minimum credit rating acceptable to FortisBC Energy as shown in Table 1 - Equivalent Credit Ratings for Long-Term Debt (which table may be amended by FortisBC Energy from time to time with approval of the BCUC);
  - (ii) meets the Minimum Tangible Net Worth requirements; and
  - (iii) its head office or its principal place of business is located in Canada or the United States or in a country that meets the Minimum Sovereign Risk Rating and such country is otherwise acceptable to FortisBC Energy.

If the Shipper has been issued a long-term debt rating by more than one of DBRS, Moody's or S&P that are not of the equivalent level, then:

1. if the lowest long-term debt rating issued to that Person is ranked no more than one level below the highest long-term debt rating issued to that Person as shown in Table 1 - Equivalent Credit Ratings for Long-Term Debt (as amended from time to time), then that Person's long-term debt rating will be deemed to be the highest of such long-term debt ratings issued to that Person; and
2. if the lowest long-term debt rating issued to that Person is ranked more than one level below the highest long-term debt rating issued to that Person as shown in Table 1 - Equivalent Credit Ratings for Long-Term Debt (as amended from time to time), then that Person's long-term debt rating will be deemed to be equivalent to the long-term debt rating shown in Table 1 - Equivalent Credit Ratings for Long-Term Debt (as amended from time to time) on the row immediately below the highest of such long-term debt ratings issued to that Person.

**Table 1**  
**Equivalent Ratings for Long-Term Debt**

DBRS	Moody's	S&P
AAA	Aaa	AAA
AA (high)	Aa1	AA+
AA	Aa2	AA
AA (low)	Aa3	AA-
A (high)	A1	A+
A	A2	A
A (low)	A3	A-
BBB (high)	Baa1	BBB+
<b>BBB*</b>	<b>Baa2*</b>	<b>BBB*</b>
BBB (low)	Baa3	BBB-
BB (high)	Ba1	BB+
BB	Ba2	BB
BB (low)	Ba3	BB-

\* Minimum credit rating acceptable to FortisBC Energy

- (j) **cubic metre or m<sup>3</sup>** – means the volume of gas which occupies 1 cubic metre when such gas is at temperature of 15°C and at an absolute pressure of 101.325 kilopascals.

- (k) **Curtailment Notice** – means a notice delivered by FortisBC Energy to the Shipper pursuant to Section 3.2 (Reduction in Contract Demand), Section 6.2 (Curtailment for Planned Maintenance), or Section 6.3 (Curtailment of Interruptible Transportation Service) advising the Shipper that FortisBC Energy intends to limit the quantities of Gas to be delivered to the Shipper at the Delivery Point on any Day by an amount set out in such notice or is deemed to be a Curtailment Notice pursuant to Section 6.5 (Curtailment for Force Majeure).
- (l) **Day** – means, subject to Section 1.2 (Change in Definition of “Day”), any period of twenty-four consecutive hours beginning and ending at 0700 PST or DST, as the case may be.
- (m) **Daily Imbalance** – means the difference between the Receipt Quantity (less the quantity of Gas delivered to the Receipt Point by the Shipper as System Gas or to correct inventory imbalances) and the Delivered Quantity as set out in a daily system operations report provided to the Shipper by FortisBC Energy pursuant to Section 8 (Daily Imbalances).
- (n) **DST** – means Pacific Daylight Savings Time.
- (o) **Delivered Quantity** – means, in respect of any Day, the total quantity of Gas delivered to the Shipper at the Delivery Point.
- (p) **Delivery Point** – means one or more points where the System interconnects with the facilities of the Shipper, as set out in the Transportation Agreement, which for greater certainty shall be located immediately downstream of the outlet flange of FortisBC Energy’s meter installed at each such point (or as otherwise stated in the Transportation Agreement).
- (q) **Effective Date** – means the date the Transportation Agreement becomes effective as set out in Section 9.1 (Effective Date).
- (r) **Expiry Date** – means the expiry date set out in the Transportation Agreement, which shall be no earlier than November 1st in the year that is 15 full years after the Commencement Date or such later date determined by the operation of Section 19.6 (Extension of Term).
- (s) **Final Gas Balance** – has the meaning ascribed to it in Section 8.6 (Final Gas Balance).
- (t) **Final Gas Balance Payment** – has the meaning ascribed to it in Section 8.6 (Final Gas Balance).
- (u) **Firm Demand Toll** – means, in respect of Firm Transportation Service, the common demand toll, expressed in dollars per gigajoule, set out in the Table of Charges.
- (v) **Firm Transportation Service** – means the obligation of FortisBC Energy pursuant to Section 5.1 (Firm Transportation Service) to transport and deliver Gas to the Delivery Point up to the Contract Demand on a take or pay basis.



- (w) **Force Majeure** – means, any acts of God, strikes, lockouts, or other industrial disturbances, civil disturbances, riots, acts of the public enemy, wars, insurrections, any order, regulation or restriction imposed by any government, regulatory authority or court having jurisdiction, blackouts, serious epidemics, landslides, lightning, earthquakes, fires, storms, floods, washouts, explosions, breakage or accident to machinery or lines of pipes, or freezing of wells or pipelines, or the failure of gas supply, temporary or otherwise, from a Supplier, and any other event or circumstance which is beyond the control of the Party, but specifically excluding:
- (i) an act of negligence or wilful misconduct by the Party claiming Force Majeure;
  - (ii) any lack of money, credit, markets or economic hardship on the part of the Party claiming Force Majeure; and
  - (iii) any act or omission of any vendor, supplier, contractor or customer of the Party claiming Force Majeure, unless such acts or omissions would themselves be excused by reason of Force Majeure as defined in this Agreement.
- (x) **Force Majeure Notice** – means a written notice delivered by one Party to the other in the event of Force Majeure in accordance with Section 19.2 (Force Majeure Notice).
- (y) **FortisBC Energy** – means FortisBC Energy Inc.
- (z) **Gas** – means natural gas (including odorant added by FortisBC Energy), which shall be measured in gigajoules or terajoules for purposes of this Rate Schedule.
- (aa) **Gas Inspection Act** – means the *Electricity and Gas Inspection Act, R.S.C. 1985, c. E4* as amended, and includes the regulations enacted thereunder and in effect from time to time.
- (bb) **gigajoule or GJ** – means 1,000,000,000 joules.
- (cc) **Interruptible Demand** – means for any Day during the Service Period the amount by which the Delivered Quantity exceeds the Contract Demand and, if provided for in the Transportation Agreement, means for any Day during the Pre-Commissioning Period, the whole of the Delivered Quantity.
- (dd) **Interruptible Demand Toll** – means, in respect of Interruptible Transportation Service, the common interruptible toll, expressed in dollars per gigajoule, set out in the Table of Charges.
- (ee) **Interruptible Transportation Service** – means the obligation of FortisBC Energy pursuant to Section 5.2 (Interruptible Transportation Service) to transport and deliver Gas to the Delivery Point in any amount exceeding the Contract Demand.
- (ff) **joule** – means the amount of work done when the point of application of a force of 1 Newton is displaced a distance of 1 meter in the direction of the force.
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- (gg) **Maintenance** – means any maintenance, repairs, improvements, expansion or other work performed on the System which FortisBC Energy anticipates will impair FortisBC Energy's ability to deliver Gas to the Delivery Point at the times, hourly rates, pressure and heat content and in the quantities contemplated in this Rate Schedule and/or a Transportation Agreement in respect of the Firm Transportation Service or Interruptible Transportation Service or both.
- (hh) **Minimum Sovereign Risk Rating** – means the foreign currency credit rating for a country that is equivalent to or better than the minimum credit rating acceptable to FortisBC Energy as shown in Table 2- Equivalent Sovereign Ratings for Sovereign Risk. Where a country has two or more ratings that differ, if the lowest long-term debt rating issued to a country is ranked no more than one level below the highest long-term debt rating issued to that country as shown in Table 2 - Equivalent Sovereign Ratings for Sovereign Risk, then that country's long-term debt rating will be deemed to be the highest of such long-term debt ratings issued to that country. If the lowest long-term debt rating issued to that country is ranked more than one level below the highest long-term debt rating issued to that country as shown in Table 2, then that country's long-term debt rating will be deemed to be equivalent to the long-term debt rating shown in Table 2 - on the row immediately below the highest of such long-term debt ratings issued to that country.

**Table 2**  
**Equivalent Ratings for Sovereign Risk**

DBRS	Moody's	S&P
AAA	Aaa	AAA
AA (high)	Aa1	AA+
<b>AA*</b>	<b>Aa2*</b>	<b>AA*</b>
AA (low)	Aa3	AA-
A (high)	A1	A+
A	A2	A
A (low)	A3	A-
BBB (high)	Baa1	BBB+
BBB	Baa2	BBB
BBB (low)	Baa3	BBB-
BB (high)	Ba1	BB+
BB	Ba2	BB
BB (low)	Ba3	BB-

\* Minimum credit rating acceptable to FortisBC Energy

- (ii) **Minimum Tangible Net Worth** – means, in respect of any Shipper, that Shipper's Tangible Net Worth is equal to or greater than the greater of:
- (i) 5 years of Firm Demand Tolls; and

- (ii) the book value of the incremental System Upgrades constructed, acquired, contracted or secured by FortisBC Energy to serve the Shipper.
- (jj) **Month** – means the period of time commencing at 0700 PST or DST, as the case may be, on the first Day of any calendar month and ending at 0700 PST or DST, as the case may be, on the first Day of the next succeeding calendar month.
- (kk) **Net Present Value** – means in respect of any future payment or revenue stream, the net present value of such payment or revenue stream calculated using a discount rate equal to FortisBC Energy's weighted average cost of capital rate calculated on an after-tax basis. The weighted average cost of capital shall be, determined with reference to (i) FortisBC Energy's actual weighted average cost of debt and (ii) the BCUC-approved return on equity and capital structure, all being determined as at the time the calculation is made.
- (ll) **petajoule or PJ** – means 1,000,000,000,000,000 joules.
- (mm) **PST** – means Pacific Standard Time.
- (nn) **Party or Parties** – means, with respect to a Transportation Agreement, FortisBC Energy and/or the Shipper.
- (oo) **Person** – includes an individual, a partnership, a body corporate, a joint venture, a trust, an unincorporated syndicate, association, organization, a government, any governmental agency, or other entity.
- (pp) **Pre-Commissioning Period** – means the period, if any, as set out in the Transportation Agreement during which FortisBC Energy agrees to provide Interruptible Transportation Service only to the Shipper, solely for the purpose of commissioning the facility to which Gas is to be transported and delivered by FortisBC Energy.
- (qq) **Prime Rate** – means the rate of interest per annum posted by the main Vancouver branch of FortisBC Energy's primary bank from time to time as a reference rate of interest for the determination of interest rates that it charges to its most creditworthy customers for Canadian dollar loans made by it in Canada.
- (rr) **Rate Schedule 50 or this Rate Schedule** – means this Rate Schedule, including all rates, terms and conditions, and the Table of Charges.
- (ss) **Receipt Point** – means one or more points where the System interconnects with the facilities of one of the Transporters, as set out in the Transportation Agreement.
- (tt) **Receipt Quantity** – means, in respect of any Day, the total quantity of Gas delivered by the Shipper to FortisBC Energy at the Receipt Point.
- (uu) **Requested Quantity** – means, in respect of any Day, the total quantity of Gas requested by the Shipper for Firm Transportation Service and Interruptible Transportation Service.

- (vv) **Required Security Amount** – means, at any time, the amount of the required Security set out in the most recent notice delivered by FortisBC Energy to the Shipper in accordance with Section 13.1 (Determination of Creditworthy and Security).
- (ww) **Security** – means the security provided by the Shipper in accordance with Section 13 (Security and Credit) to secure the prompt and orderly payment of the amounts to be paid by the Shipper to FortisBC Energy under this Rate Schedule and the Transportation Agreement, the nature, type and form of which shall be acceptable to FortisBC Energy, which may include:
- (i) one or more letters of credit or other cash form of security in favour of FortisBC Energy, issued by a financial institution acceptable to FortisBC Energy, in an aggregate amount not less than the Required Security Amount;
  - (ii) a guarantee from a Person acceptable to FortisBC Energy guaranteeing payment of the Termination Payment and all other payment obligations of the Shipper under this Rate Schedule and the Transportation Agreement; or
  - (iii) any combination of one or more letters of credit or other cash security as set out in (i) together with one or more guarantees from a Person acceptable to FortisBC Energy as set out in (ii).
- (xx) **Service Period** – means the period from 0700 PST or DST, as the case may be, on the Commencement Date until 0700 PST or DST, as the case may be, on the Expiry Date, or such other period as may be set out in the Transportation Agreement.
- (yy) **Shipper** – means any Person who enters into a Transportation Agreement with FortisBC Energy.
- (zz) **Shipper Planned Maintenance** – means any maintenance, repairs, improvements or other work performed at the facilities of the Shipper which the Shipper anticipates will impair the Shippers' ability to receive Gas at the Delivery Point.
- (aaa) **Shipper Specific Charges** – means any Shipper specific charges as determined by FortisBC Energy under Section 6.3 of the Table of Charges.
- (bbb) **System** – means the gas transmission and distribution pipeline system and related facilities owned or operated by FortisBC Energy, as such system is expanded, reduced or modified from time to time, extending from points of interconnection with the facilities of Transporters of FortisBC Energy to various delivery points in British Columbia, including those on the Sunshine Coast and Vancouver Island.
- (ccc) **System Contribution** – means the amount per GJ that is embedded in the Firm Demand Toll and Interruptible Demand Toll for use of FortisBC Energy's existing System.

(ddd) **System Gas** – means that quantity of Gas which FortisBC Energy requires for fuel and other operating uses and for lost and unaccounted for Gas incurred in the operation and maintenance of the System, other than cost of Gas that is capitalized as part of the cost of a pipeline construction or repair project.

(eee) **System Upgrades** – means the classes of assets that FortisBC Energy constructs, acquires, contracts or secures to serve Shippers under this Rate Schedule. For greater certainty, the System Upgrades include all capital projects, upgrades, replacements, expansions, compression, pipeline looping or other modifications to any element of the System and more specifically including the EGP project to expand the transmission facilities of FortisBC Energy (Vancouver Island) Inc.:

- (i) at and between the Eagle Mountain Compressor Station in Coquitlam and the Woodfibre LNG Export Facility; and
- (ii) at the Port Mellon Compressor Station,

and the CTS expansion projects to expand transmission facilities:

- (i) at and between the Cape Horn Valve Assembly and Coquitlam Gate Station;
- (ii) at and between the Nichol Valve Assembly and Port Mann Crossover Station;
- (iii) at and between the Nichol Valve Assembly and Roebuck Valve Assembly; and
- (iv) at and between Tilbury Gate Station and Tilbury LNG Facility.

(fff) **Supplier** – means the Shipper, if the Shipper has access to its own supplies of Gas, or a Person who sells Gas to the Shipper or FortisBC Energy.

(ggg) **Table of Charges** – means the table of tolls, prices, fees and charges appended to this Rate Schedule.

(hhh) **Tangible Net Worth** – means, in respect of a Shipper, means a Shipper's total assets, excluding intangible assets (including goodwill, copyright, patents, trademarks, intellectual property and other intangible assets), minus total liabilities, as shown on the Shipper's most recent audited annual financial statements prepared in accordance with generally accepted accounting principles.

(iii) **terajoule or TJ** – means 1,000 gigajoules.

- (jjj) **Termination Payment** – means the amount payable by the Shipper on termination of the Transportation Agreement by FortisBC Energy in accordance with Section 22.1 (Default) or Section 22.2 (Bankruptcy or Insolvency), calculated in accordance with Section 22.3 (Termination Payment).
  - (kkk) **Transportation Agreement** – means a transportation service agreement under which FortisBC Energy agrees to provide Firm Transportation Service and, if applicable, Interruptible Transportation Service, to the Shipper under this Rate Schedule in substantially the form appended hereto.
  - (lll) **Transporter** – means, in the case of the Columbia service area, TransCanada PipeLines Limited, B.C. System, and Nova Gas Transmission Ltd., and in the case of the Inland, Lower Mainland, and Vancouver Island service areas, Westcoast Energy Inc., FortisBC Huntingdon Inc., and any other gas pipeline transportation company connected to the facilities of FortisBC Energy from which FortisBC Energy receives gas for the purposes of gas transportation or resale.
  - (mmm) **Unauthorized Overrun Gas** – means any Gas taken on any Day in excess of the curtailed quantity set out in any Curtailment Notice, and for greater certainty Unauthorized Overrun Gas includes all Gas taken by the Shipper to the extent that the obligation of FortisBC Energy to deliver such Gas is suspended by reason of Force Majeure.
  - (nnn) **10<sup>3</sup>m<sup>3</sup>** – means 1,000 cubic metres of gas.
- 1.2 **Change in Definition of "Day"**. FortisBC Energy may amend the definition of "Day" from time to time to suitably align its operations with those of its Transporters. If FortisBC Energy amends the definition of "Day", a pro-rata adjustment of quantities of Gas and charges to account for any Day of more or less than 24 hours will be made and the term of the Transportation Agreement will be similarly adjusted.

## 2. Applicability

- 2.1 **Description of Applicability.** This Rate Schedule applies to the provision of Firm Transportation Service and Interruptible Transportation Service through the System and through one meter station to one Shipper, except as previously agreed upon by Shipper and FortisBC Energy.
- 2.2 **Status of FortisBC Energy.** FortisBC Energy does not provide transportation service as a common carrier. FortisBC Energy will only transport Gas under this Rate Schedule to the Shipper in the territory served by FortisBC Energy under this Rate Schedule if the Shipper has entered into a Transportation Agreement for a minimum Service Period of 15 years (or such longer minimum Service Period required by FortisBC Energy as a condition of service), and for a minimum of 45 terajoules per Day of Firm Transportation Service.

**3. Contract Demand**

- 3.1 **Contract Demand.** For each Day during the Service Period, the quantity of Gas which FortisBC Energy is obligated to transport and deliver in respect of Firm Transportation Service will be the Contract Demand, as set out in the Transportation Agreement.
- 3.2 **Reduction in Contract Demand.** FortisBC Energy may set out conditions in the Transportation Agreement that allow FortisBC Energy to curtail the Shipper until the System Upgrades required to provide the Shipper with Firm Transportation Service are completed.



#### 4. Requested Quantity and Authorized Quantity

4.1 **Requested Quantity.** The Shipper shall, on each Day prior to 0730 PST or DST, as the case may be, or prior to such other time as may be agreed to in writing by the Shipper and FortisBC Energy, provide FortisBC Energy by fax or other method approved by FortisBC Energy with an accurate and complete nomination schedule, in a form acceptable to FortisBC Energy, setting out for the next succeeding Day:

- (a) the quantities of Gas that the Shipper desires to take at each Delivery Point;
- (b) the allowance for System Gas;
- (c) the quantity of Gas required to correct any imbalance between the Receipt Quantity and the Delivered Quantity for any preceding Day or Days; and
- (d) such additional information as may be reasonably requested by FortisBC Energy.

If, in respect of any Day, the Shipper fails to provide FortisBC Energy with a nomination schedule in accordance with this Section 4.1 (Requested Quantity), the nomination shall be considered zero for that Day.

4.2 **Adjustment to Requested Quantity.** In the course of any Day, in respect of that Day or for the next succeeding Day, and at such times permitted by FortisBC Energy in accordance with FortisBC Energy's nomination schedule, if the Shipper wishes to change the Requested Quantity at a Delivery Point provided under Section 4.1 (Requested Quantity), then the Shipper shall provide FortisBC Energy by fax or other method approved by FortisBC Energy with a revised nomination schedule, in a form acceptable to FortisBC Energy, setting out:

- (a) the revised quantities of Gas that the Shipper desires to take at each Delivery Point;
- (b) the allowance for System Gas;
- (c) the revised quantity of Gas required to correct any imbalance between the Receipt Quantity and the Delivered Quantity for the current Day or any preceding Day or Days (as applicable); and
- (d) such additional information as may be reasonably requested by FortisBC Energy.

- 4.3 **Adjustment by FortisBC Energy.** If at any time FortisBC Energy, acting reasonably, determines that the capacity on the System is not sufficient to accommodate any portion of the Requested Quantity that is in excess of the Contract Demand, either as initially nominated pursuant to Section 4.1 (Requested Quantity) or as adjusted by the Shipper in accordance with Section 4.2 (Adjustment to Requested Quantity), then FortisBC Energy may by notice to the Shipper reduce the Requested Quantity to an amount not less than the Contract Demand which, FortisBC Energy determines, acting reasonably, may be accommodated by the capacity on the System at that time.
- 4.4 **Authorized Quantity.** If FortisBC Energy expects to have sufficient capacity available on the System to accommodate the Requested Quantity as adjusted by the Shipper pursuant to Section 4.2 (Adjustment to Requested Quantity), then FortisBC Energy will notify the Transporter of the Requested Quantity nominated by the Shipper pursuant to Section 4.1 (Requested Quantity), as adjusted. If FortisBC Energy has adjusted the Requested Quantity pursuant to Section 4.3 (Adjustment by FortisBC Energy) then FortisBC Energy will notify the Transporter of the Requested Quantity, as adjusted. In either case FortisBC Energy will request that the Transporter provide to FortisBC Energy the Authorized Quantity for the next succeeding Day or the current Day, as applicable.
- 4.5 **Notice of Authorized Quantity.** FortisBC Energy shall, as soon as reasonably practicable after receiving confirmation from the Transporter as to the Authorized Quantity for the current or succeeding Day (or, if an adjustment has been requested by the Shipper pursuant to Section 4.2 (Adjustment to Requested Quantity) as soon as reasonably practicable), FortisBC Energy will provide the Shipper by fax or other method approved by FortisBC Energy with a schedule setting out the following (as applicable):
- (a) the total quantity of Gas authorized by the Transporter to be delivered to FortisBC Energy at the Receipt Point on behalf of the Shipper;
  - (b) as applicable, an indication that the Authorized Quantity is less than the Requested Quantity; and
  - (c) as applicable, the quantity of Gas required to correct any imbalance between the Receipt Quantity and the Delivered Quantity for the current Day or any preceding Day or Days.
- 4.6 **Delivery to Receipt Point.** The Shipper will cause to be delivered to the Receipt Point on each Day a quantity of Gas at least equal to the Authorized Quantity.

- 4.7 **Failure to Deliver to Receipt Point.** If on any Day the Receipt Quantity is less than the Authorized Quantity, or if any portion of the gas delivered by the Shipper to FortisBC Energy at the Receipt Point does not meet the quality standards set out in Section 14.1 (Quality at Receipt Point), then FortisBC Energy may interrupt or curtail the Interruptible Transportation Service first by the amount of the shortfall or by the amount of the gas failing to conform with the quality specifications set out in Section 14.1 (Quality at Receipt Point), and then Firm Transportation Service to the extent of any remaining shortfall or amount of the gas failing to conform with the quality specifications set out in Section 14.1 (Quality at the Receipt Point).

## 5. Delivery of Gas

5.1 **Firm Transportation Service.** Subject to the other provisions of this Rate Schedule and the provisions of the Transportation Agreement, FortisBC Energy shall, on each Day in the Service Period, transport and deliver to the Shipper at the Delivery Point that quantity of Gas equal to the lesser of:

- (a) the Contract Demand; or
- (b) the Authorized Quantity,

provided that the Shipper delivers such quantity of Gas to FortisBC Energy at the Receipt Point in conformity with the quality specifications set out in Section 14.1 (Quality at Receipt Point) on each such Day.

5.2 **Interruptible Transportation Service.** Subject to the other provisions of this Rate Schedule and the provisions of the Transportation Agreement, FortisBC Energy shall, on each Day in the Service Period and, if provided for in the Transportation Agreement, during the Pre-Commissioning Period, transport and deliver to the Shipper at the Delivery Point a quantity of Gas equal to the Interruptible Demand, provided that the Shipper delivers such Gas to FortisBC Energy at the Receipt Point in conformity with the quality specifications set out in Section 14.1 (Quality at Receipt Point) on each such Day.

5.3 **Adjustment to Rate of Delivery.** The Shipper shall take delivery of Gas at the Delivery Point as nearly as practicable at a uniform hourly rate of flow. If the Shipper anticipates that the hourly delivery rate on any Day to the Delivery Point will be greater or less than 1/24 of the Authorized Quantity (less the quantity of Gas delivered by the Shipper to the Receipt Point as System Gas or for inventory imbalances) for such Day, then the Shipper will notify FortisBC Energy of the anticipated hourly deliveries. FortisBC Energy may authorize such deliveries provided that such rates of delivery may not:

- (a) adversely impact the operating stability, security and safety of the System; or
- (b) result in a breach of any regulatory rules or contractual obligations applicable to FortisBC Energy, including in respect of Transporter's balancing rules.

If FortisBC Energy does not authorize the delivery rates requested by the Shipper, then the Shipper shall adjust the hourly rate of flow at which it takes delivery of Gas at the Delivery Point to an amount equal to 1/24 of the Authorized Quantity (less the quantity of Gas delivered by the Shipper to the Receipt Point as System Gas or for inventory imbalances) for such Day for the Delivery Point or shall adjust the Authorized Quantity for such Day in accordance with this Section 5.3 (Adjustment to Rate of Delivery) to match the hourly delivery rate at the Delivery Point. Notwithstanding any prior delivery authorizations made by FortisBC Energy, FortisBC Energy will not be required to deliver Gas at the Delivery Point in any hour of a Day in an amount greater or less than 1/24 of the Authorized Quantity (less the quantity of Gas delivered by the Shipper to the Receipt Point as System Gas or for inventory imbalances) if FortisBC Energy considers that the rate of delivery should be limited to:

- (a) maintain the operating stability, security and safety of the System; or
- (b) comply with any regulatory rules or contractual obligations applicable to FortisBC Energy, including in respect of Transporter's balancing rules.

## 6. Adjustments and Curtailment

### 6.1 Planned Maintenance:

- (a) On or before November 1 of each year during the Service Period, FortisBC Energy shall provide Shipper written notice specifying the anticipated dates of planned Maintenance, together with a summary of such planned Maintenance, to occur during the following year. FortisBC Energy shall, provide the Shipper with periodic updates to the schedule of planned Maintenance.
- (b) FortisBC Energy shall provide the Shipper with a minimum 3 Days prior notice of any planned Maintenance, which notice shall specify the duration and timing of any anticipated reduction in FortisBC Energy's ability to deliver Gas to the Delivery Point at the times, hourly rates, pressure and heat content and in the quantities contemplated under the Transportation Agreement.

6.2 **Curtailment for Maintenance.** During any Maintenance, if FortisBC Energy determines, acting reasonably, that the capacity available on the System during a Day is not sufficient to permit FortisBC Energy to fulfill the Firm Transportation Service as contemplated under the Transportation Agreement, FortisBC Energy may curtail its deliveries of Gas at the Delivery Point to an amount that is less than the lesser of Contract Demand and the Authorized Quantity by providing the Shipper with a Curtailment Notice specifying the quantity of Gas to which the Shipper is curtailed and the time at which such curtailment is to be made. FortisBC Energy shall provide the Curtailment Notice to the Shipper by telephone and/or fax and use its reasonable efforts to provide the Curtailment Notice as soon as possible, but in any event not less than 2 hours prior to such curtailment, unless prevented or delayed by Force Majeure. FortisBC Energy shall, to the extent reasonably practicable, seek to reduce, to the extent feasible, any curtailment of Firm Transportation Service as a result of the Maintenance.

6.3 **Curtailment of Interruptible Transportation Service.** If at any time FortisBC Energy, determines that it does not have capacity on the System to accommodate a Requested Quantity in respect of Interruptible Transportation Service, FortisBC Energy may, for any length of time, interrupt or curtail transportation service under this Rate Schedule to an amount that is not less than the lesser of Contract Demand and Authorized Quantity by providing the Shipper with a Curtailment Notice specifying the quantity of Gas to which the Shipper is curtailed and the time at which such curtailment is to be made. FortisBC Energy shall provide the Curtailment Notice to the Shipper by telephone and/or fax and use its reasonable efforts to provide the Curtailment Notice as soon as possible, unless prevented or delayed by Force Majeure.

- 6.4 **Default Regarding Curtailment.** The Shipper will comply with a Curtailment Notice to interrupt or curtail the Shipper's take. If the Shipper at any time fails or neglects to comply with a Curtailment Notice, then FortisBC Energy may, in addition to any other remedy that it may then or thereafter have, at its option, without liability therefor and without any prior notice to the Shipper:
- (a) restrict the flow of Gas or turn off the valve at the applicable Delivery Point, or
  - (b) deliver such Gas and charge the Shipper the unauthorized overrun charges set out in the Table of Charges for any Unauthorized Overrun Gas.
- 6.5 **Curtailment for Force Majeure.** If a condition of Force Majeure has occurred and is continuing in respect of which FortisBC Energy has delivered a Force Majeure Notice, FortisBC Energy may elect to suspend the performance of Firm Transportation Service and Interruptible Transportation Service or to continue to perform such Gas transportation services but curtail its deliveries of Gas at the Delivery Point by any amount, including to an amount below Contract Demand or the Authorized Quantity. Any Force Majeure Notice delivered pursuant to Section 19.2 (Force Majeure Notice) which includes information in respect of a curtailment required by a Force Majeure event will be deemed to be a Curtailment Notice and the Shipper shall comply with such Curtailment Notice in accordance with Section 6.4 (Default Regarding Curtailment).

**7. Receipt and Delivery Temperature and Pressure**

- 7.1 **Temperature and Pressure at Receipt Point.** The Shipper shall deliver Gas to FortisBC Energy at the Receipt Point that meets or exceeds the minimum, and shall not exceed the maximum, delivery pressure and temperature standards set out in the applicable Transporter's general terms and conditions.
- 7.2 **Pressure at Delivery Point.** FortisBC Energy shall deliver Gas to the Shipper at the Delivery Point that meets the delivery pressure set out in the Transportation Agreement.



## 8. Daily Imbalances

- 8.1 **Daily Operations Report.** FortisBC Energy shall provide the Shipper by fax or other method approved by FortisBC Energy with a daily service operations report for the previous Day, which report shall set out:
- (a) the Receipt Quantity;
  - (b) the Delivered Quantity for each Delivery Point;
  - (c) the required allowance for System Gas as determined in accordance with Section 10.2 (System Gas);
  - (d) the resulting Daily Imbalance; and
  - (e) the balance maintained in the Shipper's inventory account (if any).
- 8.2 **Daily Imbalance.** The Shipper shall use best efforts to avoid and limit imbalances at all times, including hourly imbalances. The Shipper shall correct the Daily Imbalance set out in the daily service operations report provided to Shipper in accordance with Section 8.1 (Daily Operations Report) in a manner acceptable to FortisBC Energy as soon as reasonably practicable.
- 8.3 **Inventory Account.** FortisBC Energy will maintain an inventory account for the Shipper. The balance in the inventory account will be deemed to be zero as of the Commencement Date or, if a Pre-Commissioning Period is provided for in the Transportation Agreement, as of the commencement date of the Pre-Commissioning Period. For each Day during the Service Period and the Pre-Commissioning Period, if any, FortisBC Energy will adjust the balance in the inventory account as follows:
- (a) if the Receipt Quantity (less the quantity of Gas delivered to the Receipt Point by the Shipper as System Gas or for inventory imbalances) is greater than the Delivered Quantity, then FortisBC Energy will increase the inventory account by the amount of the Daily Imbalance; and
  - (b) if the Receipt Quantity (less the quantity of Gas delivered to the Receipt Point by the Shipper as System Gas or for inventory imbalances) is less than the Delivered Quantity, then FortisBC Energy will decrease the balance in the inventory account by the amount of the Daily Imbalance.

- 8.4 **No Relief.** Nothing in this Section 8 shall relieve the Shipper from its obligation to provide accurate nominations pursuant to Section 4.1 (Requested Quantity).
- 8.5 **FortisBC Energy May Correct Imbalances.** If the Shipper fails to correct a shortfall in the Daily Imbalance as required pursuant to Section 8.2 (Daily Imbalance), or fails to maintain an appropriate balance in the Shipper's inventory account in accordance with Section 8.3 (Inventory Account), then FortisBC Energy may correct that Daily Imbalance or take such actions as may be needed to restore the balance in the Shipper's inventory account balance to an appropriate amount. In addition, at any time, FortisBC Energy may charge the Shipper for any negative shortfalls in the Shipper's inventory account at the rates set out in the Table of Charges for Unauthorized Overrun Gas.
- 8.6 **Final Gas Balance.** As soon as reasonably practicable after the expiration or termination of the Transportation Agreement, FortisBC Energy will determine, acting reasonably, the sum of any positive or negative balance maintained in the Shipper's inventory account as of the Expiry Date or date of termination (the "Final Gas Balance"). If the Final Gas Balance is positive, FortisBC Energy may at its option, either return an amount of Gas equal to the Final Gas Balance to the Shipper at the Receipt Point or may purchase such Gas from the Shipper at an amount determined by FortisBC Energy, acting reasonably, to be reflective of current market conditions, as of the Expiry Date or the date of termination (the "Final Gas Balance Payment") and FortisBC Energy will set-off the amount of the Final Gas Balance Payment against the aggregate amounts payable by the Shipper to FortisBC Energy on the Expiry Date or date of termination of the Transportation Agreement. If the Final Gas Balance is negative then the Shipper will pay an amount equal to the Final Gas Balance Payment to FortisBC Energy as soon as reasonably practicable after the Expiry Date or date of termination.

**9. Effective Date and Term of Transportation Agreement**

- 9.1 **Effective Date.** The Transportation Agreement shall become effective upon the date (“Effective Date”) that:
- (a) FortisBC Energy obtains all certificates, licenses, permits and authorizations necessary for the receipt, transportation and delivery of Gas pursuant to this Rate Schedule and the Transportation Agreement; and
  - (b) the Shipper obtains all necessary authorizations, permits, licenses, certificates and agreements required by it to obtain and deliver Gas to FortisBC Energy at the Receipt Point and to take delivery of Gas at the Delivery Point in accordance with this Rate Schedule and the Transportation Agreement.
- 9.2 **Term.** The initial term of the Transportation Agreement will begin at 0700 PST or DST, as the case may be, on the Effective Date and will expire on the Expiry Date.
- 9.3 **Early Termination.** The Transportation Agreement is subject to early termination by FortisBC Energy in accordance with Section 22 (Default or Bankruptcy).

## 10. Charges

- 10.1 **Charges.** In respect of all Gas transportation services provided by FortisBC Energy pursuant to this Rate Schedule and the Transportation Agreement in each Month of the Service Period, and in respect of Interruptible Transportation Service, during the Pre-Commissioning Period (if any), the Shipper will pay to FortisBC Energy all of the charges set out in the Table of Charges, including:
- (a) in respect of the Firm Transportation Service, an amount equal to the Firm Demand Toll multiplied by the Contract Demand multiplied by the number of Days in that Month, irrespective of the actual amount of Gas delivered by FortisBC Energy to the Delivery Point in aggregate, or on any given Day, during that Month;
  - (b) in respect of the Interruptible Transportation Service, an amount equal to the Interruptible Demand Toll multiplied by the sum of amounts by which the quantity of Gas delivered by FortisBC Energy to the Delivery Point exceeded the Contract Demand on each Day during the Month that Interruptible Transportation Service was provided;
  - (c) any Unauthorized Overrun Charges payable pursuant to Section 8.5 (FortisBC Energy May Correct Imbalances); and
  - (d) if applicable, Shipper Specific Charges.
- 10.2 **System Gas.** In addition to the charges payable pursuant to Section 10.1 (Charges), the Shipper shall in respect of each Day deliver to FortisBC Energy at the Receipt Point an allowance for System Gas equal to that quantity of Gas, which is the sum of:
- (a) the allocated quantity of System Gas, other than fuel for line heaters at meter stations, required to transport and deliver to the Delivery Point the Receipt Quantity of Gas (less the quantity of Gas delivered to the Receipt Point by the Shipper as System Gas or for inventory imbalances), which allocation will be determined by FortisBC Energy acting reasonably; plus
  - (b) if applicable, the quantity of Gas incurred in the operation of line heaters at the meter stations at the Delivery Point where Gas is delivered to the Shipper in accordance with the Transportation Agreement.
- 10.3 **Other Charges.** In addition to the charges payable pursuant to Section 10.1 (Charges), the Shipper is responsible for Commodity Tolls.

## 11. Demand Toll Credits

11.1 **Demand Toll Credits.** Subject to Section 11.3 (Limitations on Demand Toll Credits), if on any Day the Delivered Quantity is less than the lesser of the Contract Demand and the Authorized Quantity and the shortfall results from:

- (a) any Maintenance on the System that is undertaken by FortisBC Energy on less than 3 Days' notice to the Shipper; or
- (b) an event of Force Majeure which prevents FortisBC Energy from delivering to the Shipper at the Delivery Point all or any portion of the gas delivered by the Shipper to the Receipt Point on that Day,

then the Shipper will be entitled to a Demand Toll Credit for that Day which FortisBC Energy will apply to a following monthly bill rendered pursuant to Section 12 (Statements and Payments).

11.2 **Amount of Demand Toll Credit.** The Demand Toll Credit applied by FortisBC Energy in respect of any Day pursuant to Section 11.1 (Demand Toll Credits) will be in an amount equal to the product of the Firm Demand Toll multiplied by the difference between the Delivered Quantity and the lesser of the Contract Demand, an average of the Authorized Quantity for the three Days immediately preceding any Day for which FortisBC Energy issues Demand Toll Credits, and the Authorized Quantity.

11.3 **Limitations on Demand Toll Credits.** For greater certainty, the Shipper will not be entitled to a Demand Toll Credit if the shortfall in the Delivered Quantity results directly or indirectly from:

- (a) any act or omission of the Shipper; or
- (b) the occurrence of one or more of the following, for any reason, including Force Majeure:
  - (i) the Shipper fails to deliver any portion of the Receipt Quantity to FortisBC Energy at the Receipt Point;
  - (ii) all or any portion of the gas delivered by the Shipper to FortisBC Energy at the Receipt Point fails to conform to the quality specifications set out in Section 14.1 (Quality at the Receipt Point); or
  - (iii) the Shipper fails to take delivery of Gas at any Delivery Point.

## 12. Statements and Payments

- 12.1 **Statements to be Provided.** FortisBC Energy shall, within 15 Days following the end of each Month, deliver to Shipper a statement setting out the quantities of Gas delivered to the Shipper at the Delivery Point during such Month and the amount payable by the Shipper for all services provided by FortisBC Energy to the Shipper during the Month. Where actual quantities of Gas are not available, FortisBC Energy may base the statement on a reasonable estimate of the amount of Gas, to be adjusted in a subsequent Month when actual quantities become available. Any statement delivered pursuant to this Section 12.1 (Statements to be Provided) shall be deemed to have been delivered on the Day on which it is received by the Shipper.
- 12.2 **Payment and Interest.** The Shipper shall, within 10 Days of the receipt of the statement for any Month pursuant to Section 12.1 (Statements to be Provided) or within 25 Days following the end of such Month, whichever is the later, pay the full amount of the statement, including federal, provincial and municipal taxes or fees applicable, in Canadian funds to FortisBC Energy at its Vancouver, British Columbia head office, or such other place in Canada as it may designate by written notice to the Shipper. If the Shipper fails or neglects to make any payment required under this Rate Schedule, or any portion thereof, to FortisBC Energy when due, interest on the outstanding amount will accrue, at the Prime Rate plus:
- (a) 2% from the date when such payment was due for the first 30 Days that such payment remains unpaid, and 5% thereafter until the same is paid where the Shipper has not, during the immediately preceding six Month period, failed to make any payment when due hereunder; or
  - (b) 5% from the date when such payment was due until the same is paid where the Shipper has, during the immediately preceding six Month period, failed to make any payment when due hereunder.

### 13. Security and Credit

- 13.1 **Determination of Creditworthy and Security.** At least 30 Business Days prior to the Commencement Date and from time to time thereafter FortisBC Energy will deliver a written notice to the Shipper advising the Shipper whether or not FortisBC Energy has determined the Shipper to be Creditworthy, the nature, type and form of the Security required by FortisBC and the Required Security Amount FortisBC has determined is required in accordance with Section 13.2 (Required Security Amount).
- 13.2 **Required Security Amount.** FortisBC Energy shall determine, and from time to time may adjust, the Required Security Amount, as follows:
- (a) If the Shipper is Creditworthy, then the Required Security Amount shall be:
    - (i) an amount equal to the product of Contract Demand x Firm Demand Toll x 90 Days; or
    - (ii) if FortisBC Energy applies to the BCUC for approval of an amount other than that specified in (i), the amount set by the BCUC.
  - (b) If the Shipper is not Creditworthy but has provided Security by way of a guarantee acceptable to FortisBC Energy guaranteeing payment of the Termination Payment and all other payment obligations of the Shipper under this Rate Schedule and the Transportation Agreement, then the Required Security Amount shall be the amount specified in Section 13.2(a) above.
  - (c) If the Shipper is not Creditworthy and has not provided the guarantee referred to in Section 13.2(b) above, then the Required Security Amount shall be set by the BCUC.
- 13.3 **Obligation to Deliver Security.** No less than one Business Day before the Commencement Date, the Shipper will deliver the Security to FortisBC Energy in an amount not less than the Required Security Amount.
- 13.4 **Obligation to Deliver Supplemental Security.** Shipper will maintain, amend or supplement the Security as required from time to time to ensure that the aggregate amount of the Security is not less than the Required Security Amount. If for any reason the Security, if by way of a guarantee, is no longer acceptable to FortisBC Energy, or if the aggregate amount of the Security falls below the Required Security Amount, including as a result of:
- (a) a draw-down on the Security in accordance with Section 13.5 (Enforcing the Security);

- (b) a change in the creditworthiness of the Shipper, such that the Shipper is no longer Creditworthy;
- (c) a change in long-term debt rating or other change in the creditworthiness of a Person providing a guarantee in accordance with Section 13.3 (Obligation to Deliver Security) such that the Person providing a guarantee is no longer acceptable to FortisBC Energy;
- (d) a financial institution which issued or confirmed one or more letters of credit comprising all or part of the Security:
  - (i) has disclaimed, disaffirmed, repudiated, terminated, rejected, has challenged the validity of, or otherwise invalidated, in whole or in part, such letters of credit; or
  - (ii) is no longer acceptable to FortisBC Energy; or
- (e) FortisBC Energy has adjusted the Required Security Amount in accordance with Section 13.2 (Required Security Amount) and delivered a notice in writing to the Shipper specifying the adjusted amount,

then the Shipper will, within 15 Business Days of the requirement to do so arising under this Section 13.4 (Obligation to Deliver Supplemental Security), provide additional Security sufficient to supplement, replenish or replace the existing Security such that the aggregate amount of the Security is not less than the Required Security Amount.

**13.5 Enforcing the Security.** Without limiting any other remedy available to it under this Rate Schedule or the Transportation Agreement, at law or in equity, FortisBC Energy may enforce and immediately draw down or realize upon the Security as follows:

- (a) all or any portion of the Security, if and to the extent of any amount that is owed by the Shipper to FortisBC Energy under this Rate Schedule or the Transportation Agreement remains unpaid for a period of 5 Days following the date that such amounts are due and apply the proceeds of the Security to such unpaid amounts; or
- (b) all or any portion of the Security, immediately upon FortisBC Energy terminating the Transportation Agreement in accordance with Section 22.1 (Default) or Section 22.2 (Bankruptcy or Insolvency), and apply the proceeds of the Security as partial payment of the Termination Payment.

**13.6 Non-Interference.** The Shipper agrees that if FortisBC Energy elects to draw down or realize upon the Security, the Shipper will not pursue any legal, commercial or other steps, including by way of an injunction or otherwise, to prevent FortisBC Energy from drawing down or realizing upon the Security. Any and all disputes as to whether FortisBC Energy is entitled to draw down or realize upon the Security will be resolved pursuant to Section 20 (Arbitration) after FortisBC Energy has drawn down or realized upon the



Security and applied the proceeds in accordance with Section 13.5 (Enforcing the Security).

- 13.7 **Return of Security.** If at any time the actual amount of the letters of credit or other cash security delivered by the Shipper exceeds the Required Security Amount, then FortisBC Energy will return and release to the Shipper the excess amount of such letters of credit or other cash security. Following the Expiry Date, FortisBC Energy will return and release to the Shipper the remaining Security to the Shipper within 30 days of the date upon which all amounts owing to FortisBC Energy under this Rate Schedule and the Transportation Agreement have been paid and settled by the Shipper.

## 14. Gas Quality

- 14.1 **Quality at Receipt Point.** The gas delivered by the Shipper to FortisBC Energy at the Receipt Point shall meet or exceed the minimum, and not exceed the maximum quality specifications specified by the applicable Transporter. Whenever the gas offered for delivery to FortisBC Energy at the Receipt Point fails to conform with the quality specifications set out in the applicable Transporter's general terms and conditions, FortisBC Energy may, without prejudice to any other rights it may have, refuse to take delivery of such gas in which case:
- (a) FortisBC Energy shall give notice of such refusal to the Shipper setting forth the reasons therefor; and
  - (b) FortisBC Energy shall, as soon as practicable, accept deliveries of gas at the Receipt Point after the failure to conform has been remedied and the Shipper has given FortisBC Energy notice thereof.
- 14.2 **Quality at Delivery Point.** Gas delivered by FortisBC Energy to the Shipper at the Delivery Point shall conform to the quality standards specified by the applicable Transporter. Whenever the Gas delivered by FortisBC Energy to the Shipper at the Delivery Point fails to conform with any of the specifications referred to in this Section 14.2 (Quality at Delivery Point), the Shipper may, without prejudice to any other rights it may have, refuse to take delivery of such Gas, in which case:
- (a) The Shipper shall give notice of such refusal to FortisBC Energy setting forth the reasons therefor; and
  - (b) The Shipper shall, as soon as practicable, accept deliveries of Gas at the Delivery Point after the failure to conform has been remedied and FortisBC Energy has given the Shipper notice thereof.

**15. Measurement**

- 15.1 **Volume.** The unit of volume of Gas for all purposes hereunder shall be one cubic metre at an absolute pressure of 101.325 kilopascals and at a temperature of 15 degrees centigrade.
- 15.2 **Measurement at the Delivery Point.** The following provisions shall apply to the measurement of all Gas delivered by FortisBC Energy to the Shipper at the Delivery Point.
- (a) the volume of Gas delivered by FortisBC Energy to the Shipper at the Delivery Point shall be measured and computed on a daily basis by FortisBC Energy in accordance with the requirements established under the *Gas Inspection Act* with respect to orifice, positive displacement, turbine rotary and ultrasonic meters;
  - (b) corrections shall be made on each Day of the Service Period for the deviation from Boyle's Law at the pressure and temperature at which the Gas is metered. To determine the factors for such corrections, a quantitative analysis of the Gas will be made by FortisBC Energy at reasonable intervals and such factors will be obtained from data contained in the American Gas Association Manual for Determination of Supercompressibility Factors for Natural Gas – Par Research Project NX19 of December 1962, as published by the American Gas Association and the American Gas Association Report No. 8, or any subsequent revisions thereto acceptable to both the Shipper and FortisBC Energy or directed for use pursuant to the *Gas Inspection Act*. If positive displacement or turbine meters are used, the supercompressibility factor shall be squared;
  - (c) the relative density of the Gas shall be determined by FortisBC Energy from time to time utilizing the method prescribed in the American Gas Association Publication 2529 and samples of Gas taken from points on the System where the sample or samples of Gas taken are representative of the Gas delivered through the System;
  - (d) the flowing temperature of Gas in the meters installed and operated by FortisBC Energy shall be determined by means of temperature devices installed and operated in accordance with the requirements established under the *Gas Inspection Act*; and
  - (e) the atmospheric pressure at the actual altitude of each of the Delivery Point shall be calculated in accordance with the requirements established under the *Gas Inspection Act*.

- 15.3 **Conversion of Units.** The volumes of Gas delivered by the Shipper to FortisBC Energy at the Receipt Point on each Day of the Service Period and the Pre-Commissioning Period (if any), and the volumes of Gas delivered by FortisBC Energy to the Shipper at the Delivery Point on each Day of the Service Period and the Pre-Commissioning Period (if any), shall be converted to energy units by multiplying the volume of Gas so delivered by the heat content of each cubic metre of Gas in accordance with then procedures established under the *Gas Inspection Act*. The heat content of the Gas delivered at the Delivery Point shall be measured by FortisBC Energy.

## 16. Measuring Equipment

- 16.1 **FortisBC Energy Measuring Equipment.** FortisBC Energy shall install, maintain and operate suitable metering and other equipment complying with the requirements established under the *Gas Inspection Act* and necessary to measure the volume, temperature and pressure of all Gas delivered at the Delivery Point, and shall calibrate and adjust such meters and other equipment and change the charts as required.
- 16.2 **Access to Measuring Equipment.** The Shipper shall have access to such meters and other equipment during reasonable hours, and shall be entitled to be present at the time of any installing, testing, cleaning, changing, repairing, inspecting, calibrating or adjusting done to or in connection with the meters and other measuring equipment installed and maintained by FortisBC Energy at the Delivery Point, and FortisBC Energy shall give the Shipper reasonable advance notice of such activities in order that the Shipper or its representatives can be present.
- 16.3 **Shipper-Installed Measuring Equipment.** The Shipper may install, maintain and operate at its own expense check measuring equipment at the Delivery Point, for the purpose of verifying the measurements obtained by FortisBC Energy from FortisBC Energy's meters and other measuring equipment.
- 16.4 **Verification of Measurements.** Each of the Shipper and FortisBC Energy shall conduct regular testing to verify the accuracy of its respective meters and other measuring equipment at the Delivery Point at least once every two Months or at such other intervals as may be agreed to by the Shipper and FortisBC Energy. At any time during the intervening period between regular testing, the Shipper and FortisBC Energy shall conduct exceptional testing to verify the accuracy of their respective meters and other measuring equipment at the Delivery Point if requested to do so by the other Party. If, upon undertaking exceptional testing for a requested verification, a meter or other measuring equipment is found to be registering correctly, subject to an inaccuracy not exceeding two percent, the cost of such exceptional testing shall be charged to and be borne by the Party requesting the verification, otherwise, the cost of all such requested verifications shall be borne by the Party whose meters and other measuring equipment at the Delivery Point is being tested. If, upon any test, a meter or other measuring equipment is found to be inaccurate by not more than two percent, previous readings of such equipment shall be considered correct in computing deliveries of Gas at the Delivery Point, but such equipment shall be adjusted at once to record accurately. If, upon any test, any meter or other measuring equipment is found to be inaccurate by more than two percent, then any previous readings of such equipment shall be corrected to zero error for any period which is known or can be agreed upon, but if the period is not known or cannot be agreed upon, such correction shall be for a period covering the last half of the time elapsed since the date of the previous test of that meter or measuring equipment.

16.5 **Procedures if Measuring Equipment Out of Service.** If for any period FortisBC Energy's meter or other measuring equipment is out of service or out of repair so that the quantity of Gas delivered cannot be correctly determined by the reading thereof, then FortisBC Energy, acting reasonably, shall estimate the quantity of Gas delivered during such period on the basis of the best available data, using the first of the following methods which is feasible:

- (a) by using the registration of any check measuring equipment installed and operated by the Shipper, provided such equipment is registering accurately;
- (b) by correcting the error if the percentage of error can be ascertained by calibration, test or mathematical calculations; or
- (c) by estimating the quantities of Gas delivered to the Shipper utilizing deliveries during prior periods of similar conditions when the meter or other measuring equipment was registering accurately.

**17. Possession and Control of Gas**

17.1 **Possession and Control.** FortisBC Energy shall be deemed to be in possession and control of, and responsible for all Gas received by it at the Receipt Point until such Gas is delivered by it to the Shipper at the Delivery Point as if it were the owner thereof, and shall have the right at all times to commingle such Gas with other Gas in the System. Nothing in this Rate Schedule shall be interpreted as:

- (a) effecting the transfer of any right, title or interest; or
- (b) a contract of bailment between FortisBC Energy and the Shipper,

in respect of any Gas delivered by the Shipper to FortisBC Energy at the Receipt Point while such Gas is in FortisBC Energy's possession and control.

## 18. Representations and Acknowledgments

- 18.1 **Representations of FortisBC Energy.** FortisBC Energy represents and warrants to the Shipper that it has full right, power and authority to enter into a Transportation Agreement with the Shipper.
- 18.2 **Representations of Shipper.** The Shipper represents and warrants to FortisBC Energy that:
- (a) it has full right, power and authority to enter into a Transportation Agreement with FortisBC Energy, and that all Gas delivered to FortisBC Energy thereunder at the Receipt Point shall be free from all liens and encumbrances of any nature;
  - (b) the Shipper is or will be the sole legal and beneficial owner and user of the facility to which Gas is to be delivered under this Rate Schedule and the Transportation Agreement or, with the knowledge and consent of FortisBC Energy, the Shipper has entered into a long-term agreement with a third party with respect to the sale of Gas from the Shipper to such third party in an amount not less than the Contract Demand for a period of not less than the Service Period (as outlined in the Transportation Agreement), and the Shipper will fully comply with all the terms and conditions of such agreement and not undertake any actions that could cause Shipper to breach, become in default of or terminate such agreement; and
  - (c) the Shipper acknowledges that, as between the Shipper and FortisBC Energy, the Shipper is solely responsible for acquiring under contract sufficient Gas supplies or reserves, and sufficient gathering, processing and transportation capacity required to deliver to the Receipt Point the quantities of Gas to be transported and delivered by FortisBC Energy pursuant to the Transportation Agreement, and for obtaining all governmental authorizations and approvals required in connection therewith.



**19. Force Majeure**

- 19.1 **Force Majeure.** Subject to Section 19.5 (No Relief for Payment Obligations), neither FortisBC Energy nor the Shipper shall be considered in default of any of its obligations under this Rate Schedule or the Transportation Agreement to the extent that it is prevented or delayed in performing such obligations by Force Majeure, provided that it has delivered a Force Majeure Notice in accordance with Section 19.2 (Force Majeure Notice). The Party claiming Force Majeure shall use all commercially reasonable efforts to diligently attempt to resume the performance of its obligations and to mitigate the effect of the Force Majeure on the other Party. Where a time or period of time is stipulated for the performance of any obligation and Force Majeure has been relied upon as delaying such performance, the time or period of time for such performance shall be extended by the length of time the condition of Force Majeure operates to delay or prevent such performance.
- 19.2 **Force Majeure Notice.** The Party relying upon Force Majeure shall provide the other Party with notice of such Force Majeure which shall describe in reasonable detail the following:
- (a) the Force Majeure event that has occurred;
  - (b) the extent to which the affected Party is or will be affected by the Force Majeure, the steps that the affected Party has taken, using commercially reasonable efforts to remedy the cause of the Force Majeure event and an estimate, if practicable, of the anticipated duration of the Force Majeure event; and
  - (c) if the Party claiming Force Majeure is FortisBC Energy and FortisBC Energy has elected to curtail Gas transportation service in lieu of suspending it in its entirety, the Force Majeure Notice shall specify the quantity of Gas to which the Shipper is curtailed and when such curtailment commenced or will commence.
- 19.3 **Notice to Resume.** As soon as reasonably practicable after the Force Majeure event has been remedied the Party claiming Force Majeure will notify the other Party that the Force Majeure event has been remedied and the date and time the Party has resumed, or will be in a position to resume, the performance of its obligations under this Rate Schedule and the Transportation Agreement.

- 19.4 **Settlement of Labour Disputes.** Notwithstanding any of the provisions of this Section 19 (Force Majeure), the settlement of labour disputes or industrial disturbances will be entirely within the discretion of the particular Party involved and the Party may make such settlement of it at the time and on terms and conditions as it may deem to be advisable and no delay in making settlement will deprive the Party claiming Force Majeure of the benefit of Section 19.1 (Force Majeure).
- 19.5 **No Relief for Payment Obligations.** Notwithstanding any of the provisions of this Section 19 (Force Majeure), Force Majeure will not operate to relieve any Party from any of its payment obligations under this Rate Schedule or the Transportation Agreement.
- 19.6 **Extension of Term.** Where FortisBC Energy has claimed Force Majeure, the Expiry Date shall be automatically extended by the number of Days, to a maximum of 60 Days, during which FortisBC Energy failed to deliver any Gas to the Shipper at the Delivery Point. FortisBC Energy shall provide a notice to the Shipper of such new Expiry Date. Notwithstanding the foregoing, the Transportation Agreement may further limit the number of Days by which the Expiry Date may be extended in the event that such new Expiry Date (s) could occur after the expiry of permits required for commercial operation of the Shipper's facility.

## 20. Arbitration

- 20.1 **Arbitration.** All disputes arising out of, in relation to or as a consequence of this Rate Schedule or the Transportation Agreement (including the validity or interpretation of this Rate Schedule, the Transportation Agreement or any provision therein), except for disputes concerning matters falling within the exclusive jurisdiction of the BCUC, which cannot be settled amicably through negotiations between the Parties shall be referred to and finally resolved by binding arbitration under the International Commercial Arbitration Rules of Procedure of the British Columbia International Commercial Arbitration Centre ("BCICAC") then in effect. The place of arbitration shall be Vancouver, British Columbia and the language of arbitration shall be English. The arbitration shall be conducted before a sole arbitrator (the "Arbiter"). The Appointing Authority shall be the BCICAC. FortisBC Energy and the Shipper agree to execute, if requested by the Arbiter, a reasonable engagement letter with the Arbiter.
- 20.2 **Arbitration Binding.** Subject to applicable statutory remedies of judicial review or appeal, the arbitration award shall be final and binding on FortisBC Energy and the Shipper, and judgment on the award may be entered by any court of competent jurisdiction. If the Parties settle the dispute in the course of the arbitration, the settlement shall be approved by the Arbiter on request of either Party and shall become the award.
- 20.3 **Concurrent Proceedings.** If a dispute arises under another agreement between the Parties and is pending concurrently with a dispute pending under this Rate Schedule or the Transportation Agreement, based on the same or similar facts and circumstances, then, upon mutual consent, the Parties may consolidate those disputes in a single arbitration proceeding with the intent of avoiding any unnecessary multiplicity of proceedings.
- 20.4 **Obligations Continue.** The Parties will continue to fulfill their respective obligations pursuant to this Rate Schedule and the Transportation Agreement during the resolution of any dispute in accordance with this Section 20 (Arbitration).

## 21. Notices

- 21.1 **Notice.** Subject to Section 21.2 (Designated Persons), Section 21.3 (Electronic Communications) and Section 21.5 (Notice of Force Majeure), any notice, request, statement or bill that is required to be given or that may be given under this Rate Schedule or under the Transportation Agreement will, unless otherwise specified, be in writing and will be considered as fully delivered when mailed, personally delivered, sent by fax, or other method approved by FortisBC Energy to the other Party in accordance with the following:

<u>If to FortisBC Energy</u>	FORTISBC ENERGY INC.
MAILING ADDRESS:	16705 Fraser Highway Surrey, B.C. V4N 0E8
BILLING AND PAYMENT:	Attention: Industrial Billing Telephone: 1-855-873-8773 Fax: (604) 293-2920
CUSTOMER RELATIONS:	Attention: Commercial & Industrial Energy Solutions Telephone: (604) 592-7843 Fax: (604) 592-7894
LEGAL AND OTHER:	Attention: General Counsel Telephone: (604) 443-6538 Fax: (604) 443-6540

If to the Shipper, then as set out in the Transportation Agreement.

- 21.2 **Designated Persons.** The Shipper shall give written notice to FortisBC Energy from time to time setting out the name, title, telephone and fax numbers of the Person designated by the Shipper to receive: any notices in respect of adjustments to Contract Demand, notices of adjustment pursuant to Section 4.3 (Adjustment by FortisBC Energy), notices of Authorized Quantity pursuant to Section 4.5 (Notice of Authorized Quantity), notices of Planned Maintenance pursuant to Section 6.1 (Planned Maintenance), Curtailment Notices pursuant to Section 6.2 (Curtailment for Planned Maintenance) and Section 6.3 (Curtailment of Interruptible Transportation Service), daily service operations reports pursuant to Section 8.1 (Daily Operations Report), notices pursuant to Section 14.1 (Quality at Receipt Point), notices of installation and other activities pursuant to Section 16.2 (Access to Measuring Equipment), notices of Force Majeure pursuant to Section 19.2 (Force Majeure Notice), notices of remedy of Force Majeure condition pursuant to Section 19.3 (Notice to Resume) and notices of default or of suspension or termination pursuant to Section 22.1 (Default). FortisBC Energy shall give written notice to the Shipper from time to time setting out the name, title, telephone and fax numbers of the Person designated by FortisBC Energy to receive: Requested Quantity notices pursuant to Section 4.1 (Requested Quantity), notices of adjustments to Requested Quantity notices pursuant to Section 4.2 (Adjustment to Requested Quantity), Shipper Planned Maintenance notices pursuant to Section 6.1 (Planned Maintenance), notices pursuant to Section 14.2 (Quality at Delivery Point), notices of Force Majeure pursuant to Section 19.2 (Force Majeure Notice), notices of remedy of Force Majeure condition pursuant to Section 19.3 (Notice to Resume).
- 21.3 **Electronic Communication.** Where the Shipper and FortisBC Energy agree to do so, the notices and other schedules to be provided by the Shipper and FortisBC Energy in respect of adjustments to Contract Demand and pursuant to Section 4.1 (Requested Quantity), Section 4.2 (Adjustment to Requested Quantity), Section 4.3 (Adjustment by FortisBC Energy), Section 4.5 (Notice of Authorized Quantity), Section 6.1 (Planned Maintenance), Section 6.2 (Curtailment for Planned Maintenance), Section 6.3 (Curtailment of Interruptible Transportation Service) and the daily service operations reports to be provided by FortisBC Energy in accordance with Section 8.1 (Daily Operations Reports) may be delivered by one Party to the other by means of a computerized system of communication rather than by fax, as approved by FortisBC Energy.
- 21.4 **Changes in Nomination Procedures.** If the Transporter or any other Person operating a pipeline which transports Gas for delivery through the System changes its Gas nomination and authorization procedures, FortisBC Energy may make any changes to its Gas nomination and authorization procedures, including changes that conflict with these processes set out in this Rate Schedule as FortisBC Energy reasonably requires to reflect such changed procedures.

21.5 **Notice of Force Majeure.** Notwithstanding Section 21.1 (Notice), notices pursuant to Section 19 (Force Majeure) will be sufficient if:

- (a) given by FortisBC Energy in writing by fax, orally in person, by telephone, or other method approved by FortisBC Energy (to be confirmed in writing) to the Person designated from time to time by the Shipper pursuant to Section 21.2 (Designated Persons); or
- (b) given by the Shipper by telephone (to be confirmed by fax) to the Person designated from time to time by FortisBC Energy pursuant to Section 21.2 (Designated Persons) in the following manner:

To claim Force Majeure..."Please be advised that (name of company and location of plant) has (reason for claiming Force Majeure as provided in Section 19 of Rate Schedule 50) and hereby claims suspension by reason of Force Majeure in accordance with the terms of Rate Schedule 50 effective 0700 PST or DST, as the case may be (date Force Majeure suspension to become effective)."

To resume after Force Majeure..."Please be advised that (name of company and location of plant) requests a return to normal natural gas service in accordance with Rate Schedule 50 and the Transportation Agreement effective 0700 PST or DST, as the case may be, (date Force Majeure suspension to end, but not to be retroactive) whereby the suspension by reason of Force Majeure currently in force will be terminated."

## 22. Default or Bankruptcy

22.1 **Default.** If the Shipper at any time:

- (a) fails or neglects to make any payment due to FortisBC Energy under this Rate Schedule or the Transportation Agreement within 5 Days after payment is due;
- (b) fails or neglects to deliver, maintain, amend, replace or supplement the Security as required under Section 13 (Security and Credit); or
- (c) fails or neglects to correct any default of any of the other terms, covenants, agreements, conditions or obligations imposed upon it under this Rate Schedule or the Transportation Agreement, within 5 Days after FortisBC Energy gives to the Shipper notice of such default or, in the case of a default that cannot with due diligence be corrected within a period of 5 Days, fails to correct the default with all due diligence; or
- (d) purports to terminate its obligations under the Transportation Agreement,

then, FortisBC Energy may, in addition to any other remedy that it has at law or in equity, at its option and without liability:

- (e) suspend Firm Transportation Service and Interruptible Transportation Service by giving notice in writing to the Shipper, which suspension notice shall be effective as of 07:00 PST or DST, as the case may be, on the Day immediately after the suspension notice is delivered, until the default has been fully remedied, and no such suspension or refusal will relieve the Shipper from any obligation under this Rate Schedule or the Transportation Agreement; and
- (f) if:
  - (i) the Shipper has defaulted under Section 22.1(a), (c) or (d) and failed to remedy the default within 15 Days of FortisBC Energy delivering a suspension notice pursuant to Section 22.1(e) (Default), or if one or more of the other defaults set out in Sections 22.1(a), (b), (c) or (d) has occurred within such suspension period;
  - (ii) the Shipper fails or neglects to deliver, maintain, amend, replace or supplement the Security as required under Section 13 (Security and Credit); or

- (iii) the Shipper (or any receiver or third party on behalf of the Shipper) has failed to affirm the Transportation Agreement within the time required under Section 22.2 (Bankruptcy or Insolvency) or the Shipper (or any receiver or third party on behalf of the Shipper) fails at any time to continue to fully comply with all of the terms, covenants, agreement, conditions or obligations imposed upon the Shipper under this Rate Schedule and the Transportation Agreement following an event of bankruptcy or insolvency set out in Section 22.2 (Bankruptcy or Insolvency),

then FortisBC Energy may immediately terminate the Transportation Agreement, by giving notice in writing to the Shipper, which termination notice shall be effective as of 07:00 PST or DST, as the case may be, on the Day immediately after the termination notice is delivered to the Shipper.

- 22.2 **Bankruptcy or Insolvency.** If the Shipper becomes bankrupt or insolvent or commits or suffers an act of bankruptcy or insolvency or a receiver is appointed pursuant to a statute or under a debt instrument over all or substantially all the assets of the Shipper or the Shipper seeks protection from the demands of its creditors pursuant to any legislation enacted for that purpose, then FortisBC Energy will have the right, at its sole discretion, to immediately terminate the Transportation Agreement by giving notice in writing to the Shipper and thereupon FortisBC Energy may cease further delivery of Gas to the Shipper. However, if the Shipper (or any receiver or other third party acting on behalf of the Shipper) affirms the Transportation Agreement within 2 Business Days of the occurrence of any such events of bankruptcy or insolvency, FortisBC Energy shall not have the right to immediately terminate the Transportation Agreement for so long as the Shipper (or any receiver or other third party on behalf of the Shipper) continues to fully comply with all of the terms, covenants, agreements, conditions or obligations imposed upon the Shipper under this Rate Schedule and the Transportation Agreement.
- 22.3 **Termination Payment.** If FortisBC Energy terminates this Agreement in accordance with Section 22.1 (Default) or Section 22.2 (Bankruptcy or Insolvency), then the Shipper shall pay to FortisBC Energy a payment ("Termination Payment") equal to the Net Present Value of the product of 90% x Contract Demand x Firm Demand Toll x 365 days per year x the number of months from the termination date until the Expiry Date divided by 12.
- 22.4 **Liquidated Damages.** FortisBC Energy and the Shipper acknowledge that the Termination Payment is a genuine pre-estimate of the damages to be incurred by FortisBC Energy from early termination of the Transportation Agreement and is not a penalty. The Shipper irrevocably waives any right it may have to raise as a defense that the Termination Payment is excessive, punitive, or not a genuine pre-estimate of damages. The Shipper acknowledges that the Termination Payment is reasonable in light of the following costs and risks to FortisBC Energy from such early termination:
  - (a) the construction costs assumed by FortisBC Energy prior to the commencement of the Service Period;



- (b) FortisBC Energy may be unable to materially reduce the expenses associated with the operation and maintenance of the System Upgrades;
- (c) this Rate Schedule is a common rate, with the full cost of constructing the System Upgrades not allocated to the Shipper but embedded in FortisBC Energy's overall rate base;
- (d) the cost of the System Upgrades may remain in FortisBC Energy's overall rate base to be borne by the other customers of FortisBC Energy through increased rates, resulting in the risk of other customers discontinuing service, stranded assets elsewhere in the System, and additional direct and indirect costs and lost profits;
- (e) if the whole or any part of the System Upgrades are removed from FortisBC Energy's overall rate base, FortisBC Energy may bear the costs of that portion of the System Upgrades; and
- (f) the costs of abandonment and/or removal of the System Upgrades may not be fully recovered through rates paid by the Shipper.

22.5 **Other Remedies.** For greater certainty, FortisBC Energy and the Shipper agree that, upon any termination of the Transportation Agreement under circumstances where FortisBC Energy is entitled to the Termination Payment and such Termination Payment is paid in full, FortisBC Energy shall be precluded from any other remedy against the Shipper at law or in equity or otherwise (including an order for specific performance) and shall not seek to obtain any recovery, judgment, or damages of any kind, including consequential, indirect, or punitive damages, against the Shipper or any of its Affiliates, or against any of their respective directors, officers, employees, partners, managers, members, shareholders or Affiliates in respect of the early termination of the Transportation Agreement.

## 23. Indemnity and Limitation on Liability

- 23.1 **Liability of FortisBC Energy.** In no event shall FortisBC Energy be liable to the Shipper under this Rate Schedule or the Transportation Agreement, in any circumstances, for any amount other than any Demand Toll Credits credited to the Shipper pursuant to Section 11 (Demand Toll Credits). For greater certainty, FortisBC Energy shall in no circumstances be liable to the Shipper for the Shipper's direct, indirect, special or consequential loss, damage, cost or expense whatsoever, whether based on breach of contract, negligence, strict liability or otherwise, including capital costs, business interruption losses, lost profits or revenues, cost of lost, purchased or replacement Gas, or lost permits, certificate or contracts.
- 23.2 **Indemnity.** The Shipper will indemnify and hold harmless each of FortisBC Energy, its Affiliates and their respective employees, contractors and agents from and against any and all adverse claims, losses, suits, actions, judgments, demands, debts, accounts, damages, costs, penalties and expenses (including all legal fees and disbursements) arising from or out of each of the following:
- (a) any defect in title to any Gas delivered to FortisBC Energy at the Receipt Point on behalf of the Shipper from Suppliers other than FortisBC Energy, or arising from any Person's security interest in the Gas delivered to FortisBC Energy;
  - (b) any Gas delivered by the Transporter or the Shipper to FortisBC Energy at the Receipt Point failing to meet the quality specifications set out in Section 14.1 (Quality at Receipt Point);
  - (c) any act, accident, event or omission in connection with the construction, installation, presence, maintenance and operation of the property, facilities and equipment of the Shipper;
  - (d) any breach of this Rate Schedule or the Transportation Agreement by the Shipper; and
  - (e) all federal, provincial, and municipal taxes (or payments made in lieu thereof), whether payable on the delivery of Gas to FortisBC Energy at the Receipt Point by the Shipper or on the delivery of Gas to the Shipper by FortisBC Energy at the Delivery Point, or on any other service provided by FortisBC Energy to the Shipper.

## 24. Interpretation

- 24.1 **Interpretation.** Except where the context requires otherwise or except as otherwise expressly provided, in this Rate Schedule or in the Transportation Agreement
- (a) all references to a designated section are to the designated section of this Rate Schedule unless otherwise specifically stated;
  - (b) the singular of any term includes the plural, and vice versa, and the use of any term is equally applicable to any gender and, where applicable, body corporate;
  - (c) the words "include", "includes" and "including" shall be read as if followed by the words "without limitation";
  - (d) any reference to a corporate entity includes and is also a reference to any corporate entity that is a successor by merger, amalgamation, consolidation or otherwise to such entity;
  - (e) any reference to an act or regulation includes a reference to that act or regulation as amended or replaced from time to time;
  - (f) all words, phrases and expressions used in this Rate Schedule or in the Transportation Agreement that have a common usage in the gas industry and that are not defined the Definitions or in the Transportation Agreement have the meanings commonly ascribed to such words, phrases and expressions in the gas industry;
  - (g) the headings of the sections set out in this Rate Schedule or in the Transportation Agreement are for convenience of reference only and will not be considered in any interpretation of this Rate Schedule or the Transportation Agreement; and
  - (h) any decision, election, authorization, determination, acceptance, waiver, consent or other discretion to be granted, made or exercised by FortisBC Energy or the Shipper hereunder shall be at that Party's sole discretion unless otherwise expressly stated.

## 25. Miscellaneous

- 25.1 **Waiver.** No waiver by either Party of any default by the other in the performance of any of the provisions of the Transportation Agreement shall operate or be construed as a waiver of any other or future default or defaults, whether of a like or a different character.
- 25.2 **Amendment of Rate Schedule.** From time to time FortisBC Energy may amend the terms and conditions of this Rate Schedule and the Table of Charges by filing an amendment to the Rate Schedule and obtaining the approval of the BCUC.
- 25.3 **Enurement.** The Transportation Agreement shall enure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns.
- 25.4 **Assignment.** The Transportation Agreement may not be assigned in whole or in part by the Shipper unless the Shipper has first obtained the prior written consent of FortisBC Energy. Nothing herein contained shall prevent either of the Parties from pledging, charging or mortgaging its rights under this Rate Schedule or the Transportation Agreement as security for its indebtedness or obligations without the consent of the other Party. Any Person who has acquired a security interest under this Rate Schedule or in the Transportation Agreement as security for the indebtedness or obligations of either Party may, without the consent of the other Party, assign the Transportation Agreement to another Person in connection with the enforcement of the security interest.
- 25.5 **Entire Agreement.** This Rate Schedule and the Transportation Agreement constitute the entire agreement between the Parties and supersede all previous agreements, understandings, negotiations and representations between the Parties in respect of the subject matter of this Rate Schedule and the Transportation Agreement.
- 25.6 **Amendment.** No amendments or variation of the Transportation Agreement shall be effective and binding upon the Parties unless such amendment or variation is set forth in writing and duly executed by the Parties. Amendments requiring approval of the BCUC shall become effective and binding upon the Parties only upon the effective date of the BCUC approval.
- 25.7 **Time of the Essence.** Time is of the essence of this Rate Schedule and the Transportation Agreement and of the terms and conditions thereof.

- 25.8 **Relationship.** Nothing in this Rate Schedule or the Transportation Agreement shall be construed as creating any partnership, joint venture, agency or other fiduciary relationship between FortisBC Energy and the Shipper.
- 25.9 **Survival.** Notwithstanding the termination of the Transportation Agreement, the provisions of Section 8.6 (Final Gas Balance), Section 12 (Statements and Payments), Section 13.5 (Enforcing the Security), Section 13.6 (Non-Interference), Section 13.7 (Return of Security), Section 17 (Possession and Control of Gas), Section 20 (Arbitration), Section 22.3 (Termination Payment), Section 22.4 (Liquidated Damages), Section 22.5 (Other Remedies), Section 23 (Indemnity and Limitation of Liability), Section 24 (Interpretation), Section 25.8 (Relationship), Section 25.9 (Survival), Section 25.11 (Choice of Law) and Section 25.12 (Payments) shall survive the termination of the Transportation Agreement. The Parties shall use reasonable efforts to make all adjustments and to settle all accounts which are outstanding between the Parties as of the Expiry Date within the payment periods specified in this Rate Schedule or, if no payment period is specified, as soon as reasonably practicable.
- 25.10 **Further Assurances.** Each of FortisBC Energy and the Shipper will execute and deliver or cause to be executed and delivered all such further documents and instruments and do all such further acts and things as the other may reasonably require to evidence, carry out and give full effect to the terms, conditions, intent and meaning of this Rate Schedule and the Transportation Agreement and to assure the completion of the transactions contemplated hereby.
- 25.11 **Choice of Law.** The Transportation Agreement and this Rate Schedule shall be construed in accordance with the laws of the Province of British Columbia and the laws of Canada applicable therein and the Transportation Agreement shall be treated in all respects as contracts made, entered into and to be wholly performed in British Columbia by parties domiciled and resident therein.
- 25.12 **Payments.** All payments required to be made under statements and invoices rendered pursuant to this Rate Schedule or the Transportation Agreement will be made by wire transfer to, or certified cheque or bank draft drawn on a Canadian chartered bank or trust company, payable in lawful money of Canada in immediately available funds in Vancouver, British Columbia.

## TABLE OF CHARGES (ToC)

### 1. ToC - DEFINITIONS

- (a) **AFUDC** - means a return earned on FortisBC Energy's capital and development costs of constructing utility assets until such assets are included in FortisBC Energy's rate base equal to FortisBC Energy's after tax weighted average cost of capital, determined annually based on the return on equity and capital structure approved by the BCUC for FortisBC Energy from time to time and FortisBC Energy's embedded cost of debt.
- (b) **Cost Model** - means the cost model used by FortisBC Energy to determine the Initial Firm Demand Toll, variables of which include the Forecast Rate Schedule 50 Annual Demand, Cost of Service of System Upgrades, capital investment in System Upgrades and a System Contribution.
- (c) **Cost of Service** - means the total costs to be used in determining any rate or any rate adjustment pursuant to the ToC, which costs shall be determined by FortisBC Energy acting reasonably, including:
  - (i) the actual capital investment in the System Upgrades including, without limitation, any associated labour, equipment, material, and any other costs necessary to serve Shippers under this Rate Schedule including a reasonable allocation of FortisBC Energy's overhead associated with the construction of the System Upgrades, net of any grants, or tax credits offsetting the full costs of the System Upgrades;
  - (ii) depreciation and net negative salvage rates and expenses related to the net amount described in (i);
  - (iii) incremental operating and maintenance expenses needed to serve Shippers under this Rate Schedule;
  - (iv) applicable property and income taxes;
  - (v) the Return on Rate Base; and

- (vi) if any Shipper was an existing customer of FortisBC Energy at any time prior to its Commencement Date for service under this Rate Schedule, an amount equal to the allocated cost of service attributable to that Shipper taking service under another rate schedule as set out in the cost of service allocation study most recently approved by the BCUC at the time of entering into the Transportation Agreement;

less, as set out in Section 6.3 (Shipper Specific Charges), the cost of service of any contributions in aid of construction and additional tolls or rate riders multiplied by applicable Shipper Contract Demand.

For clarity, Cost of Service does not include any costs, expenses, taxes or other applicable amounts that are included in the Commodity Toll.

- (d) **Existing Rate Schedule 50 Annual Demand** - means the sum of the Contract Demand of all existing Rate Schedule 50 Shippers that FortisBC Energy is obligated to transport and deliver to on December 31 of the year prior to any year for which an annual rate is being calculated as contemplated in the Table of Charges, multiplied by 365. Existing Rate Schedule 50 Annual Demand does not include the Contract Demand of a Shipper whose Transportation Agreement will be terminated during the year for which an annual rate is being calculated.
- (e) **Forecast Rate Schedule 50 Annual Demand** - means the sum of the Contract Demand of all Rate Schedule 50 Shippers with a Transportation Agreement the Service Period of which is included in any year for which the annual rate is being calculated as contemplated in the Table of Charges, multiplied by 365. Forecast Rate Schedule 50 Annual Demand does not include the Contract Demand of a Shipper whose Transportation Agreement will be terminated during the year for which an annual rate is being calculated.
- (f) **General Rate Change** - means, in any year, a rate change approved by the BCUC, (including an interim rate change), applicable in a uniform manner to all non-bypass customers, and for greater certainty excludes rate changes related to rate design. In any year where there is no rate change applicable in a uniform manner to all non-bypass customers, the General Rate Change is deemed to be zero.
- (g) **Initial Demand Toll** - means the Firm Demand Toll and Interruptible Toll(s) effective during the Initial Service Period.
- (h) **Initial Service Period** - means the period commencing on 0700 PST or DST, as the case may be, on the earlier of the Commencement Date or the first Day of any Pre-Commissioning Period, as set out in the first Transportation Agreement entered into under this Rate Schedule 50 and ending immediately prior to 0700 DST on January 1st following the anniversary of the Commencement Date in that Transportation Agreement.

- (i) **Notional Calculated Toll** – means:
  - (i) in the year following the Initial Service Period, the Firm Demand Toll determined for the Initial Service Period under Sections 2.2 and 2.3, but without accounting for the Rate Floor; and
  - (ii) in all other years, the toll amount determined under Section 4.1(a) for the prior year (and for greater certainty, without accounting for the Rate Floor).
- (j) **Presumptive Initial Firm Demand Toll** - means the Initial Demand Toll for Firm Transportation Service as set out in ToC Section 2.2 (Presumptive Initial Firm Demand Toll) of this Table of Charges unless adjustments are required under ToC Section 2.3 (Adjustments) of this Table of Charges.
- (k) **Rate Floor** – means the minimum Demand Toll for Firm Transportation Service despite any other provision in this Table of Charges, and is deemed to be:
  - (i) \$0.55 per GJ if the Forecast Rate Schedule 50 Annual Demand is equal to or less than 200 PJ per year;
  - (ii) \$0.50 per GJ if the Forecast Rate Schedule 50 Annual Demand is greater than 200 PJ per year and equal to or less than 400 PJ per year; and
  - (iii) \$0.45 per GJ if the Forecast Rate Schedule 50 Annual Demand is greater than 400 PJ per year.
- (l) **Return on Rate Base** - means the regulated rate of return earned by FortisBC Energy on rate base assets equal to FortisBC Energy's weighted average cost of capital, determined based on the return on equity and capital structure approved by the BCUC for FortisBC Energy from time to time and FortisBC Energy's embedded cost of debt.
- (m) **Sumas Daily Price** – means the "NW Sumas" Daily Midpoint Price as set out in Gas Daily's Daily Price Survey for Gas delivered to Northwest Pipeline Corporation at Sumas, converted to Canadian dollars using the noon exchange rate as quoted by the Bank of Canada, one business day prior to Gas flow date, for each Day. Energy units are converted from MMBtu to gigajoule by application of a conversion factor equal to 1.055056 gigajoule per MMBtu.



**2. TOC - DETERMINATION OF INITIAL DEMAND TOLL FOR FIRM TRANSPORTATION SERVICE**

- 2.1 **Initial Demand Toll for Firm Transportation Service.** The Initial Demand Toll for Firm Transportation Service during the Initial Service Period shall be the Presumptive Initial Firm Demand Toll specified in Section 2.2 unless adjustments are required under Section 2.3, in which case the adjusted amount determined under Section 2.3(a) and (b), shall be the Initial Demand Toll for Firm Transportation Service.
- 2.2 **Presumptive Initial Firm Demand Toll.** The Presumptive Initial Firm Demand Toll is \$0.897 per GJ and includes a \$0.100 per GJ System Contribution. FortisBC Energy determined the Presumptive Initial Firm Demand Toll using the Cost Model calculated on the basis of information available as of April 1, 2022.
- 2.3 **Adjustments.** In determining the Initial Demand Toll for Firm Transportation Service, the Presumptive Initial Firm Demand Toll is subject to adjustment as follows:
- (a) If the updated inputs in the Cost Model as determined in Section 2.3(b) yield a toll that differs from the Presumptive Initial Firm Demand Toll, then, unless the Shipper has requested otherwise and such request has been expressly agreed to by FortisBC Energy, the first Shipper shall make a contribution in aid of construction such that the Cost Model, as determined in Section 2.3(b), yields an Initial Demand Toll for Firm Transportation Service that is no greater than the Presumptive Initial Firm Demand Toll. If the updated inputs in the Cost Model yield a number that equals the Presumptive Initial Firm Demand Toll, then the Initial Demand Toll for Firm Transportation Service shall be the Presumptive Initial Firm Demand Toll, subject to the Rate Floor.
  - (b) For the purposes of the calculation under Section 2.3(a):
    - i. the inputs in the Cost Model will be updated as of the date that is 45 Days prior to the first Commencement Date set out in any Transportation Agreement entered into under this Rate Schedule 50, using the applicable rates and quantities as of that date, actual capital costs incurred, and otherwise FortisBC Energy's best estimates of such capital costs.

ii. The inputs in the Cost Model that will be updated are:

Forecast Rate Schedule 50 Annual Demand
The capital costs (and associated AFUDC) of the System Upgrades expected to be in service at the first Commencement Date set out in any Transportation Agreement entered into under this Rate Schedule 50.
FortisBC Energy's Return on Rate Base
Depreciation rates for asset classes associated with the System Upgrades
Tax changes (including income taxes and property taxes), plus or minus

### 3. TOC - TOLLS FOR INTERRUPTIBLE TRANSPORTATION SERVICE

- 3.1 **Initial Interruptible Demand Toll April to October** - The Interruptible Demand Toll applicable on the Days April 1 through October 31 during the Initial Service Period is equal to 90% of the Initial Demand Toll for Firm Transportation Service.
- 3.2 **Initial Interruptible Demand Toll November to March** - The Interruptible Demand Toll applicable on the Days November 1 through March 31 inclusive during the Initial Service Period is equal to 115% of the Initial Demand Toll for Firm Transportation Service.
- 3.3 **Initial Pre-Commissioning Period Interruptible Demand Toll** - The Interruptible Demand Toll applicable during the Pre-Commissioning Period (if any) during the Initial Service Period is equal to the 115% of the Initial Demand Toll for Firm Transportation Service.

### 4. TOC - DETERMINATION OF DEMAND TOLL FOR FIRM TRANSPORTATION SERVICE AFTER INITIAL SERVICE PERIOD

- 4.1 The Firm Demand Toll is subject to adjustment annually, on each January 1<sup>st</sup> following the Initial Service Period as follows:

The Firm Demand Toll in effect in any year shall be the greater of the amount determined under (a) and (b):

(a) The sum of (i) and (ii):

(i)  $B \times (100\% + \text{MAXIMUM}(\text{MINIMUM}(C \text{ AND } 3\%) \text{ AND } 0\%))$

where:

1. B equals the existing System Contribution
2. C equals the General Rate Change

(ii) 
$$\frac{\left( (A - B) \times (100\% + \text{MAXIMUM}(\text{MINIMUM}(C \text{ AND } 3\%) \text{ AND } 0\%)) \times D \right) + E}{F}$$

where:

1. A equals the Notional Calculated Toll
2. B equals the existing System Contribution
3. C equals the General Rate Change
4. D equals the Existing Rate Schedule 50 Annual Demand
5. E equals the forecast incremental Cost of Service associated with the Forecast Rate Schedule 50 Annual Demand
6. F equals the Forecast Rate Schedule 50 Annual Demand

(b) The Rate Floor.

## 5. TOC - DETERMINATION OF DEMAND TOLL FOR INTERRUPTIBLE TRANSPORTATION SERVICE AFTER INITIAL SERVICE PERIOD

- 5.1 **Interruptible Demand Toll April to October** - The Interruptible Demand Toll applicable on the Days April 1 through October 31 inclusive of each is equal to 90% of the Firm Demand Toll on that Day.

- 
- 5.2 **Interruptible Demand Toll November to March** - The Interruptible Demand Toll applicable on the Days November 1 through March 31 inclusive of each is 115% of the Firm Demand Toll on that Day.
- 5.3 **Pre-Commissioning Period Interruptible Demand Toll** - The Interruptible Demand Toll applicable to Interruptible Transportation Service in the Pre-Commissioning Period is the Firm Demand Toll. If the Firm Demand Toll is not in place at time of the Pre-Commissioning Period of the first Shipper, the applicable toll shall be the Presumptive Initial Firm Demand Toll. .
- 6. TOC - OTHER APPLICABLE CHARGES**
- 6.1 **Commodity Toll** – the applicable Commodity Toll for the Month, as set out in Section 1.1(g) (Definitions), and Section 10.3 (Other Charges).
- 6.2 **Unauthorized Overrun Gas Charges** - Unauthorized Overrun Gas Charges, for each Day on which there is Unauthorized Overrun Gas, are:
- |   |  |
|---|--|
| (a) Per GJ charge on the first 1,000 GJs in excess of the amount set out in the Curtailment Notice or in the case of imbalances, in the inventory imbalance account.    | Sumas Daily Price X 1.5                                  |
| (b) Per GJ charge on all Gas over 1,000 GJs in excess of the amount set out in the Curtailment Notice or in the case of imbalances, in the inventory imbalance account. | The greater of \$20.00/GJ or the Sumas Daily Price x 1.5 |
- 6.3 **Shipper Specific Charges** – If, at the time a Shipper enters into a Transportation Agreement, the forecast incremental Cost of Service associated with providing Transportation Service to such Shipper causes the Firm Demand Toll to increase by more than 5% above the Firm Demand Toll that would have applied if the Shipper had not entered into a Transportation Agreement under this Rate Schedule, then FortisBC Energy shall require such Shipper to:
- |   |
|---|
| (a) provide a contribution in aid of construction; or |
| (b) pay an additional toll or rate rider,             |

that has the effect of limiting the increase in the Firm Demand Toll to 5% above the Firm Demand Toll that would have applied if the Shipper had not entered into a Transportation Agreement under this Rate Schedule. FortisBC Energy may elect (a) or (b) in its sole discretion.

**7. TOC - CHANGES TO TOLLS AND CHARGES APPROVED BY THE BCUC**

7.1 FortisBC Energy may, in its sole discretion, bring forward applications to the BCUC to change any tolls or charges, or the formulae by which the tolls and charges and adjustments to them are determined, and Rate Schedule 50 will be amended consistent with any BCUC orders.

**ILLUSTRATIVE EXAMPLE: ANNUAL RATE CHANGE MECHANISM CALCULATION**

1. Rate Change Variables

(a) Toll Components

(i) Existing Notional Calculated Toll less System Contribution	\$	0.670	<i>per GJ</i>
(ii) System Contribution	\$	<u>0.100</u>	<i>per GJ</i>

Existing Notional Calculated Toll **\$ 0.770** *per GJ*

(b) Annual Demand

(i) Existing Rate Schedule 50 Annual Demand	110,000	<i>TJ</i>
(ii) Forecast year incremental demand	<u>30,000</u>	<i>TJ</i>
<b>Forecast Rate Schedule 50 Annual Demand</b>	<b><u>140,000</u></b>	<i>TJ</i>

(c) FortisBC Energy's Forecast incremental Cost of Service

(i) Forecast incremental Cost of Service	\$	2,000 <i>Thousand<sup>f</sup></i>
--	----	-----------------------------------

(d) Applicable General Rate Change percent

- (i) Percent increase to all FortisBC Energy non-bypass delivery rates is equal to 2.30%,
- (ii) 2.30% is less than maximum increase of 3%; and greater than the minimum of 0%; therefore the applicable increase is 2.30%

2. Rate Change Calculation

(a) System Contribution

(i) Existing System Contribution	\$	0.100	<i>per GJ</i>
(ii) Multiplied by (1 + General Rate Change percent)		<u>1.023</u>	
(iii) Revised System Contribution	\$	0.102	<i>per GJ</i>

(b) Existing Notional Calculated Toll Less System Contribution

(i) Existing Notional Calculated Toll less System Contribution	\$	0.670	<i>per GJ</i>
(ii) Multiplied by (1 + General Rate Change percent)		<u>1.023</u>	
(iii)	\$	0.685	<i>per GJ</i>
(iv) Multiplied by Existing Rate Schedule 50 Annual Demand		<u>110,000</u>	<i>TJ</i>
(v)	\$	75,350	<i>Thousand</i>
(vi) Plus Forecast incremental Cost of Service	\$	<u>2,000</u>	<i>Thousand</i>
(vii)	\$	77,350	<i>Thousand</i>
(viii) Divided by Forecast Rate Schedule 50 Annual Demand		<u>140,000</u>	<i>TJ</i>
(ix) Revised Notional Calculated Toll less System Contribution	\$	0.553	<i>per GJ</i>

(c) Firm Demand Toll

(i) System Contribution (a, (iii))	\$	0.102	<i>per GJ</i>
(ii) Revised Notional Calculated Toll less System Contribution (b, (ix))	\$	<u>0.553</u>	<i>per GJ</i>
(iii) New Notional Calculated Toll (sum of (i) and (ii))	\$	0.655	<i>per GJ</i>
(iv) Rate Floor	\$	0.550	<i>per GJ</i>
(v) Firm Demand Toll applied (greater of (iii) and (iv))	\$	0.655	<i>per GJ</i>

All applicable taxes will apply to the total bill as calculated above.

**<sup>1</sup>Notes:**

Example Determination of the forecast incremental Cost of Service

<u>Line</u>	<u>Inputs &amp; Rates</u>	<u>\$ thousands</u>	
1	Incremental Capital Investment	20,000	(including AFUDC)
2	Incremental Shipper Specific CIAC	-	
3	Incremental O&M	200	
4	Incremental Property Tax	78	
5	Incremental Shipper Specific Recoveries	-	
6			
7	Depreciation Rate	1.55%	
8	Amortization Rate for CIAC	n/a	
9	CCA Rate	6.00%	
10	Annual Salvage Rate	0.14%	
11	Tax Rate	26.00%	
12	Return on Equity	8.75%	
13	Equity Ratio	38.50%	
14	Weighted Average Cost of Debt	6.43%	
15	Debt Ratio	61.50%	
16			
17	<b>Cost of Service Calculations (\$ thousands)</b>		
18			
19	Rate Base		
20	Opening Plant in Service	-	
21	Additions (Opening Adjustment)	20,000	Line 1
22	Closing Plant in Service	20,000	
23			
24	Opening Accumulated Depreciation	-	
25	Depreciation Expense	(310)	-(Line 20 + Line 21) x Line 7
26	Closing Accumulated Depreciation	(310)	
27			
28	Opening CIAC	-	
29	Additions (Opening Adjustment)	-	Line 2
30	Closing CIAC	-	
31			
32	Opening Accumulated Amortization	-	
33	Amortization Expense	-	-(Line 28 + Line 29) x Line 8
34	Closing Accumulated Amortization	-	
35			
36	Mid Year Net Plant In Service	19,845	
37			
38	Deferred Charges		
39	Opening Neg. Salvage	-	
40	Amortization Expense (Removal Provision)	(28)	Line 21 x Line 10
41	Closing Neg. Salvage	(28)	
42			
43	Mid Year Deferred Charges	(14)	
44			
45	Rate Base	19,831	Line 36 + Line 43

46			
47	Income Tax Expense		
48	CCA Deduction		
49	Opening UCC	-	
50	Additions	20,000	Line 21 + Line 29
51	CCA	<u>(1,200)</u>	(Line 49 + Line 50) x Line 9
52	Closing UCC	18,800	
53			
54	Equity Return	668	Line 45 x Line 12 x Line 13
55	Add: Depreciation Expense	310	Line 25
56	Add: Amortization Expense	28	Line 33 + Line 40
57	Deduct: CCA	<u>(1,200)</u>	Line 51
58	Taxable Income After Tax	(194)	
59			
60	Tax Expense	(68)	(Line 58 / (1 - Line 11)) x Line 11
61			
62	<b>Forecast Incremental Cost of Service (\$ thousands)</b>		
63			
64	O&M	200	Line 3
65	Property Taxes	78	Line 4
66	Depreciation Expense	310	Line 25
67	Amortization Expense	28	Line 33 + Line 40
68	Shipper Specific Recoveries	-	Line 5
69	Income Tax Expense	(68)	Line 60
70	Equity Return	668	Line 45 x Line 12 x Line 13
71	Debt Expense	<u>785</u>	Line 45 x Line 14 x Line 15
72	Total	<u>2,000</u>	



**TRANSPORTATION AGREEMENT FOR  
RATE SCHEDULE 50**

This Agreement is dated \_\_\_\_\_, 20\_\_ between FortisBC Energy Inc. ("FortisBC Energy") and \_\_\_\_\_ (the "Shipper").

**WHEREAS:**

- A. FortisBC Energy owns and operates the System; and
- B. The Shipper has requested that FortisBC Energy arrange for the transportation of Gas on a firm and interruptible basis through the System from the specified Receipt Point(s) to the specified Delivery Point(s) in accordance with Rate Schedule 50 as set out below and the terms set out herein.

**NOW THEREFORE THIS AGREEMENT WITNESSES THAT** in consideration of the terms, conditions and limitations contained herein, the Parties agree as follows:

**1. Specific Information**

The Parties agree to the following terms and that the following information shall be applicable to each reference in either this Transportation Agreement or Rate Schedule 50.

Firm Contract Demand: \_\_\_\_\_ Gigajoules per day

Conditions upon Firm Contract Demand (Section 3.2): \_\_\_\_\_

Volumetric Equivalent: \_\_\_\_\_ 10<sup>3</sup>m<sup>3</sup> per day

Pre-Commissioning Period: \_\_\_\_\_

Commencement Date: \_\_\_\_\_

Expiry Date: November 1, 20\_\_\_\_ (Insert Date not less than 15 years following the Commencement Date)

Form of Security: \_\_\_\_\_

Receipt Point(s): The point at ( \_\_\_\_\_ km-post \_\_\_\_\_ ) where the Transporter's pipeline system in British Columbia interconnects with the System

Delivery Point(s): \_\_\_\_\_

Pressure at the Delivery Point(s): \_\_\_\_\_  
(only specify where applicable as set out in  
Section 7.2 of Rate Schedule 50)

Shipper's service address: \_\_\_\_\_

Account Number: \_\_\_\_\_

Address of Shipper for receiving  
notices:

\_\_\_\_\_  
(name of Shipper)

Attention: \_\_\_\_\_

\_\_\_\_\_  
(address of Shipper)

Telephone: \_\_\_\_\_

\_\_\_\_\_

Fax: \_\_\_\_\_

\_\_\_\_\_

Email: \_\_\_\_\_

\_\_\_\_\_

The information set out above is hereby approved by the Parties and each reference in either this Transportation Agreement or Rate Schedule 50 to any such information is to the information set out above.

## 2. Rate Schedule 50

- 2.1 **Defined Terms** – Capitalized terms not otherwise defined herein shall have the meanings as set out in the FortisBC Energy Inc. Rate Schedule 50 Large Volume Industrial Transportation effective January 1, 2015, as approved from time to time by the BCUC (“Rate Schedule 50”).
- 2.2 **Additional Terms** - All rates, terms and conditions set out in Rate Schedule 50, as may be amended by FortisBC Energy and approved from time to time by the BCUC, are hereby incorporated by reference in this Transportation Agreement and are in addition to the terms and conditions contained in this Transportation Agreement and bind FortisBC Energy and the Shipper as if set out in this Transportation Agreement.
- 2.3 **Payment of Amounts** - Without limiting the generality of the foregoing, the Shipper will pay to FortisBC Energy all of the amounts set out in Rate Schedule 50 for the services provided by FortisBC Energy to Shipper under Rate Schedule 50 and this Transportation Agreement.
- 2.4 **Conflict** - Where anything in Rate Schedule 50 conflicts with any of the terms and conditions set out in this Transportation Agreement, this Transportation Agreement governs. The General Terms and Conditions of FortisBC Energy do not apply to the services provided by FortisBC Energy to Shipper under Rate Schedule 50 and this Transportation Agreement
- 2.5 **Acknowledgement** - The Shipper acknowledges receiving and reading a copy of Rate Schedule 50 and agrees to comply with and be bound by all terms and conditions set out therein. Without limiting the generality of the foregoing, where the transportation service provided by FortisBC Energy to Shipper hereunder is Interruptible Transportation Service or is otherwise subject to curtailment as set out in Rate Schedule 50, the Shipper acknowledges that it is able to accommodate such interruption or curtailment and releases FortisBC Energy from any liability for the Shipper's inability to accommodate such interruption or curtailment of transportation service.
- 2.6 **Independent Legal Advice** - Shipper represents and warrants to FortisBC Energy that it has received independent legal advice regarding the terms of this Transportation Agreement and Rate Schedule 50.
- 2.7 **Counterparts** - This Transportation Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which taken together shall be deemed to constitute one and the same instrument. Counterparts may be executed in original, faxed or e-mail form and the Parties adopt any signatures received by fax or e-mail as original signatures of the Parties.

**IN WITNESS WHEREOF** the Parties hereto have executed this Transportation Agreement.

**FORTISBC ENERGY INC.**

\_\_\_\_\_  
(here insert name of Shipper)

BY: \_\_\_\_\_  
(Signature)

BY: \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Name - Please Print)

\_\_\_\_\_  
(Name - Please Print)

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

## APPENDIX 4.1



FORTISBC ENERGY INC.

TRANSPORTATION AGREEMENT

**TRANSPORTATION AGREEMENT FOR  
RATE SCHEDULE 50**

This Agreement is dated September 13, 2021 between FortisBC Energy Inc. ("**FortisBC Energy**") and Pacific Energy Corp. ("**PEC**") and Woodfibre LNG Limited ("**WLNG**") (collectively PEC and WLNG, the "**Shipper**").

**WHEREAS:**

- A. FortisBC Energy owns and operates the System; and
- B. The Shipper has requested that FortisBC Energy arrange for the transportation of Gas on a firm and interruptible basis through the System from the specified Receipt Point(s) to the specified Delivery Point(s) in accordance with Rate Schedule 50 as set out below and the terms set out in this Transportation Agreement.

**NOW THEREFORE THIS AGREEMENT WITNESSES THAT** in consideration of the terms, conditions and limitations contained herein, the Parties agree as follows:

**1. SPECIFIC INFORMATION**

The Parties agree to the following terms and that the following information shall be applicable to each reference in either this Transportation Agreement or Rate Schedule 50.

Contract Demand for each Day	Base Contract Demand	+	Seasonal Firm Contract Demand for that Day
Base Contract Demand	Has the meaning given in Section 2.1(e)		
Seasonal Firm Contract Demand	Has the meaning given in Section 2.1(tt)		
Conditions upon Firm Contract Demand (Section 3.2 of Rate Schedule 50):	None		
Pre-Commissioning Period:	Has the meaning given in Section 2.1(ggg)		
Commencement Date:	Has the meaning given in Section 2.1(i)		
Expiry Date:	Has the meaning given in Section 2.1(t)		

Order No.: \_\_\_\_\_  
 Effective Date: \_\_\_\_\_  
 BCUC Secretary: \_\_\_\_\_

Issued By: \_\_\_\_\_  
 Accepted for Filing: \_\_\_\_\_  
 Original Page: \_\_\_\_\_

Form of Security: As determined from time to time in accordance with this Transportation Agreement

Receipt Point(s): The point at 835.9 km-post 917.6 where the Transporter's pipeline system in British Columbia interconnects with the System

Delivery Point(s): The outlet flange of the Custody Transfer & Metering Station at the LNG Facility

Shipper's service address: Woodfibre LNG Limited  
Pacific Energy Corp.  
1185 W Georgia St,  
Ninth Floor  
Vancouver, BC, V6E 4E6

Account Number: As notified by FortisBC Energy to the Shipper on or before the Commencement Date

Address of Shipper for receiving notices: Woodfibre LNG Limited  
Pacific Energy Corp.  
1185 W Georgia St,  
Ninth Floor  
Vancouver, BC, V6E 4E6

Attention: Vice President Commercial

Telephone: 604 620 7883

Fax: 604-620-8860

Email: [commercial@WLNG.ca](mailto:commercial@WLNG.ca)

The information set out above is hereby approved by the Parties and each reference in either this Transportation Agreement or Rate Schedule 50 to any such information is to the information set out above.

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Order No.: \_\_\_\_\_  
Effective Date: \_\_\_\_\_  
BCUC Secretary: \_\_\_\_\_

Issued By: \_\_\_\_\_  
Accepted for Filing: \_\_\_\_\_  
Original Page

## 2. RATE SCHEDULE 50

2.1 **Defined Terms.** Capitalized terms not defined below or otherwise defined in this Transportation Agreement will have the meanings set out in the FortisBC Energy Inc. Rate Schedule 50 Large Volume Industrial Transportation effective January 1, 2015, as approved from time to time by the BCUC ("**Rate Schedule 50**");

- (a) "**Adjustment Period**" has the meaning given in Section 3.1(a);
- (b) "**Affiliate**" means any Person which directly or indirectly Controls, is Controlled by, or is under common Control with a Person;
- (c) "**Assignee**" has the meaning given in Section 7.2(b);
- (d) "**Assignment Date**" has the meaning given in Section 7.2(d)(iii);
- (e) "**Base Contract Demand**", subject to Section 6.1, means:
  - (i) in the case where the Loop has been approved and completed, 260,000 GJ; or
  - (ii) in the case where the Loop has not been approved or completed, 240,000 GJ;
- (f) "**BCOGC**" means the BC Oil & Gas Commission or any entity which replaces it or which substantially succeeds to its powers or functions;
- (g) "**BTA Termination Payment**" means the undepreciated net book value of the compression station in Langley, British Columbia which is equal to sixteen million, two hundred and seventy seven thousand dollars (\$16,277,000);
- (h) "**CIAC**" has the meaning given in the Construction Security Agreement;
- (i) "**Commencement Date**" has the meaning given in, and will be determined in accordance with, Section 2.9(b);
- (j) "**Commencement Date Notice**" has the meaning given in Section 2.9(b);
- (k) "**Commitment Fees**" has the meaning given in the Interim Agreement;
- (l) "**Completion Date**" means the date on which the work performed to construct and install the Incremental System Upgrades has achieved mechanical completion (as defined in the relevant contracts for the development and construction of the Incremental System Upgrades) and, subject to commissioning, the Incremental System Upgrades, are, subject to Section 2.8, capable of providing the Firm Transportation Service;
- (m) "**Construction Security Agreement**" or "**CSA**" means the construction security agreement entered into between, among others, FortisBC Energy and the Shipper dated November 24, 2020;
- (n) "**Contract Demand**" has the meaning given in Section 6.1;

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Order No.: \_\_\_\_\_  
Effective Date: \_\_\_\_\_  
BCUC Secretary: \_\_\_\_\_

Issued By: \_\_\_\_\_  
Accepted for Filing: \_\_\_\_\_  
Original Page: \_\_\_\_\_



- (o) **"Control"** and inflexions of **"Control"** means, in relation to any Person, possession, directly or indirectly, of the power to direct or cause direction of management and policies of that Person through ownership of voting securities, contract, voting trust or otherwise;
- (p) **"Custody Transfer & Metering Station"** means FortisBC Energy's metering facility, located on or adjacent to the site of the LNG Facility, immediately upstream of the Delivery Point;
- (q) **"Demand Toll Credit"** has the meaning given in, and will be calculated in accordance with, Section 6.7;
- (r) **"Effective Date"** has the meaning given in, and will be determined in accordance with, Section 2.9(a);
- (s) **"Effective Date Notice"** has the meaning given in Section 2.9(a);
- (t) **"Expiry Date"** means, subject to any earlier termination in accordance with Rate Schedule 50, the 40<sup>th</sup> anniversary of the Commencement Date;
- (u) **"Exposure"** means from time to time:
  - (i) the net book value of the Final Gross Rate Base, inclusive of Incremental System Upgrades, net of any subsequent applicable accumulated depreciation thereon as determined in accordance with accepted regulatory accounting practices for depreciating capital project costs; less
  - (ii) the net book value of the Final CIAC Amount, net of any subsequent applicable accumulated depreciation thereon as determined in accordance with accepted regulatory practices for depreciating CIACs;
- (v) **"Final CIAC Amount"** has the meaning given in the Construction Security Agreement;
- (w) **"Final Gross Rate Base"** has the meaning given in the Construction Security Agreement;
- (x) **"Financing Entities"** has the meaning given in Section 8.2;
- (y) **"Firm Demand Toll"** means:
  - (i) prior to the date on which Sections 3.2(b) and 3.2(c) cease to apply and be operative in accordance with Section 3.2(d), the Firm Demand Toll applicable to the Shipper determined in accordance with Section 3.2(c);
  - (ii) on and after the date on which Sections 3.2(b) and 3.2(c) cease to apply and be operative in accordance with Section 3.2(d), the Firm Demand Toll applicable to the Shipper determined in accordance with Section 3.2(e);
- (z) **"First RC Satisfaction Notice"** has the meaning given in Section 4.6(b);
- (aa) **"First RC Satisfaction Date"** has the meaning given in Section 4.6(c);

Order No.: \_\_\_\_\_  
 Effective Date: \_\_\_\_\_  
 BCUC Secretary: \_\_\_\_\_

Issued By: \_\_\_\_\_  
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 Original Page: \_\_\_\_\_

- (bb) **"First Reduced Required Security Amount"** has the meaning given in Section 4.6(a);
- (cc) **"First Reduction Conditions"** has the meaning given in Section 4.6(a);
- (dd) **"First Required Security Amount Reduction"** means a reduction of the Required Security Amount in accordance with Section 4.6(a) to Section 4.6(d) (inclusive);
- (ee) **"FortisBC Energy Rating Downgrade"** means if at any time prior to the fifteenth anniversary of the Commencement Date:
  - (i) the form and amount of the Security to be delivered or delivered by the Shipper under this Transportation Agreement; or
  - (ii) the Required Security Amount Reduction; or
  - (iii) the delivery of one (1) or more Surety Bonds in accordance with Section 4.7; or
  - (iv) the assignment of this Transportation Agreement by the Shipper in accordance with Section 7.2,

(or any combination of the foregoing, as the case may be) is confirmed in writing or published by a Rating Agency as being a primary cause of, or which is likely to be a primary cause of, a downgrade in the credit rating of FortisBC Energy by any Rating Agency;
- (ff) **"Fourth Reduction Conditions"** has the meaning given in Section 4.6(m);
- (gg) **"Fourth Required Security Amount Reduction"** means a reduction of the Required Security Amount in accordance with Section 4.6(m) to Section 4.6(p) (inclusive);
- (hh) **"Fourth RC Failure Date"** has the meaning given in Section 4.8(m)(i);
- (ii) **"Fourth RC Satisfaction Date"** has the meaning given in Section 4.6(o);
- (jj) **"Fourth RC Satisfaction Notice"** has the meaning given in Section 4.6(n);
- (kk) **"Fourth Reduced Required Security Amount"** means the Firm Demand Toll multiplied by the Contract Demand multiplied by the number of Days in that Month multiplied by eighteen (18) months determined by reference to any eighteen (18) month period in the estimate of the Seasonal Firm Contract Demand most recently provided (as at the relevant determination date) by FortisBC Energy to the Shipper pursuant to Section 6.4;
- (ll) **"FRC Failure Date"** has the meaning given in Section 4.8(d)(l);
- (mm) **"Future Reimbursements"** has the meaning given in Section 3.1(b);
- (nn) **"Governmental Authority"** means any federal, provincial, territorial, regional, municipal or local government or authority, quasi government authority, fiscal or judicial body, government or self-regulatory organization, commission, board,

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tribunal, organization, or any regulatory, administrative or other agency, or any political or other subdivision, department, or branch of any of the foregoing;

- (oo) "**Gross Negligence**" means such wanton and reckless conduct (which was not an error of judgment, mistake or other act or omission (negligent or not)) as constitutes an utter disregard for the harmful, foreseeable and avoidable consequences which result from that conduct but Gross Negligence does not include any conduct insofar as it was done or omitted in accordance with the express consent or approval of all Parties;
- (pp) "**Heat Content**" means the quantity of energy per unit volume of Gas measured under standardized conditions and expressed in megajoules per cubic metre (MJ/m<sup>3</sup>);
- (qq) "**Incremental System Upgrades**" means the assets that FortisBC Energy constructs, acquires, contracts or secures in connection with the Project (including, for certainty, the Loop and the Custody Transfer & Metering Station) to expand the transmission facilities of FortisBC Energy at and between the Eagle Mountain Compressor Station in Coquitlam and the LNG Facility/V2 Compressor Station;
- (rr) "**Interim Agreement**" means the Interim Agreement between the Parties dated January 9, 2018, as amended June 26, 2018, September 27, 2018, November 23, 2018, December 7, 2018 and December 28, 2018;
- (ss) "**Interruptible Demand Toll**" means the Interruptible Demand Toll April to October or the Interruptible Demand Toll November to March, as the context requires;
- (tt) "**Interruptible Demand Toll April to October**":
  - (i) prior to the date on which Sections 3.2(b) and 3.2(c) cease to apply and be operative in accordance with Section 3.2(d), the Interruptible Demand Toll applicable on the Days April 1 through October 31 inclusive of each is equal to 90% of the Firm Demand Toll (referred to in Section 2.1(y)(i)) on that Day;
  - (ii) on and after the date on which Sections 3.2(b) and 3.2(c) cease to apply and be operative in accordance with Section 3.2(d), the Interruptible Demand Toll applicable on the Days April 1 through October 31 inclusive of each is equal to 90% of the Firm Demand Toll (referred to in Section 2.1(y)(ii)) on that Day;
- (uu) "**Interruptible Demand Toll November to March**":
  - (i) prior to the date on which Sections 3.2(b) and 3.2(c) cease to apply and be operative in accordance with Section 3.2(d), the Interruptible Demand Toll applicable on the Days November 1 through March 31 inclusive of each is equal to 115% of the Firm Demand Toll (referred to in Section 2.1(y)(i)) on that Day;
  - (ii) on and after the date on which Sections 3.2(a) and 3.2(c) cease to apply and be operative in accordance with Section 3.2(d), the Interruptible Demand Toll applicable on the Days November 1 through March 31

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inclusive of each is equal to 115% of the Firm Demand Toll (referred to in Section 2.1(y)(ii)) on that Day;

- (vv) **"Letter of Credit"** means an irrevocable, unconditional and self-renewing standby letter of credit in favour of FortisBC Energy;
- (i) which is in the form and on the terms and conditions specified in Schedule C or any other form agreed and approved in writing by FortisBC Energy (in its sole discretion); and
  - (ii) which is issued by a bank or financial institution in Canada approved by FortisBC Energy (in its sole discretion) which meets the Minimum Credit Rating (and for the purposes of this Section 2.1(vv)(ii) each of the Toronto-Dominion Bank, Canadian Imperial Bank of Commerce, Bank of Montreal, Bank of Nova Scotia or Royal Bank of Canada are approved by FortisBC Energy as long as such institution meets the Minimum Credit Rating); and
  - (iii) which is capable of being drawn down on at the issuing bank or financial institution's counters in the City of Vancouver, British Columbia or such other city or municipality within the Province of British Columbia as may be acceptable to FortisBC Energy (in its sole discretion),

and for certainty, a reference to a Letter of Credit includes and means the Letter of Credit as modified, replaced or renewed or supplemented by any additional letter of credit at any time during the Term;

- (ww) **"LNG"** means liquefied natural gas;
- (xx) **"LNG Agreement"** means an LNG Capacity Agreement, or an LNG Offtake Agreement, and **"LNG Agreements"** means LNG Capacity Agreements or LNG Offtake Agreements, or any combination of them;
- (yy) **"LNG Capacity Agreement"** means an agreement between one or more members of the Shipper Group and a Third Party (who, for certainty, is not a member of the Shipper Group) by which, among other things, the Third Party acquires Gas liquefaction capacity or Gas liquefaction services at the LNG Facility;
- (zz) **"LNG Facility"** means the proposed natural gas liquefaction and export facility, including all facilities comprising a part of or which are adjacent to such liquefaction and export facility which are used for the storage, lifting and loading of LNG produced by such liquefaction and export facility, to be located south of Squamish in Howe Sound, British Columbia;
- (aaa) **"LNG Offtake Agreement"** means an agreement between one or more members of the Shipper Group and a Third Party (who, for certainty, is not a member of the Shipper Group) by which, among other things, the Third Party agrees to offtake LNG from the LNG Facility;
- (bbb) **"Loop"** means a proposed pipeline loop of FortisBC Energy's existing NPS 12 Vancouver Mainland 323 pipeline (for approximately 3 kilometres) with a new NPS 24 pipeline to be constructed by FortisBC Energy in order to increase capacity and reliability of Gas transmission to the Shipper. The proposed pipeline loop will

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originate at the Eagle Mountain compressor station, and parallel the existing FortisBC Energy NPS 12 gas pipeline;

- (ccc) **"Minimum Credit Rating"** means on the relevant date of determination:
- (i) in the case of a Letter of Credit, the following minimum measures of creditworthiness assigned to a bank or financial institution in Canada issuing a Letter of Credit which are to be assigned by not less than two of the following independent credit rating agencies:
    - (A) DBRS (A-high);
    - (B) Standard and Poor's Ratings Services (A+); and
    - (C) Moody's Investors Services (A1);
  - (ii) in the case of a Surety Bond, the following minimum measures of creditworthiness assigned to a financial institution or insurance company in Canada licensed to conduct the business of an insurer in the Province of British Columbia issuing a Surety Bond which are to be assigned by not less than two of the following independent credit rating agencies:
    - (A) DBRS (AA);
    - (B) Standard and Poor's Ratings Services (AA); and
    - (C) Moody's Investors Services (Aa2);
- (ddd) **"New Exposure"** is equivalent to the amount of CIAC that is reimbursed to the Shipper, at the time the reimbursement is made, in accordance with Section 3.1 or the mechanism described in Section 3.1(b)(ii) (as the case may be), net of any applicable accumulated depreciation determined in accordance with accepted regulatory accounting practices for depreciating CIACs;
- (eee) **"OFAC"** means The Office of Foreign Assets Control of the US Department of the Treasury or any Person which replaces it or which substantially succeeds to its powers or functions;
- (fff) **"PCP Notice"** has the meaning given in Section 2.10(a)(ii);
- (ggg) **"Pre-Commissioning Period"** has the meaning given in Section 2.10(a)(i);
- (hhh) **"Project"** has the meaning given in the Construction Security Agreement;
- (iii) **"Project Costs"** has the meaning given in the Construction Security Agreement;
- (jjj) **"Rating Agencies"** means the independent credit rating agencies (including any successor to any of those agencies) specified in Section 2.1(ccc);
- (kkk) **"Recoverable Costs"** has the meaning given in the Construction Security Agreement;
- (lll) **"Reimbursement Amount"** has the meaning given in Section 3.1(a)(iv);

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- (mmm) **"Remaining CIAC Amount"** for the period from the Commencement Date until the True Up Date, means the Target CIAC Amount and, for the period after the True Up Date, means the Final CIAC Amount, in either case less the value of any reimbursements of the Shipper's CIAC made pursuant to Section 3.1 prior to the end of the Adjustment Period or other applicable period, less the value of any amortization accrued by FortisBC Energy in respect of Shipper's CIAC as of that date;
- (nnn) **"Required Security Amount"** means, at any determination or adjustment date, the amount of the Security required to be delivered and maintained by the Shipper under this Transportation Agreement and Rate Schedule 50, as determined or adjusted by FortisBC Energy in accordance with Section 4 and for the purposes of Section 4.8(b) includes the Fourth Reduced Required Security Amount, as the context dictates, but for certainty, the Required Security Amount does not include the amount of the Security required to be delivered and maintained by the Shipper under this Transportation Agreement on account of any New Exposure;
- (ooo) **"Required Security Amount Reduction"** means any one or more of the First Required Security Amount Reduction, the Second Required Security Amount Reduction, the Third Required Security Amount Reduction or the Fourth Required Security Amount Reduction;
- (ppp) **"Sanctioned Entity"** means:
- (i) a country or a government of a country;
  - (ii) an agency of the government of a country;
  - (iii) an organization directly or indirectly controlled by a country or its government; or
  - (iv) a Person resident in or determined to be resident in a country,
- in each case, that is subject to a country Sanctions program administered and enforced by OFAC or by any Canadian Governmental Authority;
- (qqq) **"Sanctioned Person"** means:
- (i) any Person listed in any sanctions-related list of designated persons maintained by any Canadian Governmental Authority; or
  - (ii) a Person named on the list of Specially Designated Nationals and Blocked Persons maintained by OFAC;
- (rrr) **"Sanctions"** means economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by OFAC or any Canadian Governmental Authority;
- (sss) **"Satisfaction Certificate"** means a certificate in the form set out in Schedule B - Satisfaction Certificate;
- (ttt) **"Seasonal Firm Contract Demand"** has the meaning given in Section 6.2;

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- (uuu) **"Seasonal Firm Delivery Notice"** means any written notice delivered by FortisBC Energy to Shipper in respect of the amount of the Seasonal Firm Contract Demand in accordance with Section 6.4;
- (vvv) **"Second Reduced Required Security Amount"** has the meaning given in Section 4.6(e);
- (www) **"Second Reduction Conditions"** has the meaning given in Section 4.6(e);
- (xxx) **"Second Required Security Amount Reduction"** means a reduction of the Required Security Amount in accordance with Section 4.6(e) to Section 4.6(h) (inclusive);
- (yyy) **"Second RC Satisfaction Date"** has the meaning given in Section 4.6(g);
- (zzz) **"Second RC Satisfaction Notice"** has the meaning given in Section 4.6(f);
- (aaaa) **"Security"** means a Letter of Credit or other cash form of security and, where permitted by Section 4.7, a Surety Bond;
- (bbbb) **"Security Default"** means the occurrence of any of the following events:
  - (i) the issuer of the Security fails to maintain the Minimum Credit Rating;
  - (ii) the issuer of the Security fails to comply with or perform its obligations under such Security;
  - (iii) the issuer of the Security disaffirms, disclaims, repudiates or rejects, in whole or in part, or challenges the validity of, such Security;
  - (iv) the Security expires or terminates, or fails or ceases to be in full force and effect at any time during the Term, in any such case without replacement; or
  - (v) the issuer of the Security becomes bankrupt or insolvent or commits or suffers an act of bankruptcy or insolvency or a receiver is appointed pursuant to a statute or under a debt instrument over all or substantially all the assets of the issuer of the Security or the issuer of the Security seeks protection from the demands of its creditors pursuant to any legislation enacted for that purpose;
- (cccc) **"Service Period"** means, in respect of the initial Service Period, the period commencing at 0700 DST on the Commencement Date and ending immediately prior to 0700 DST on the next occurring January 1<sup>st</sup> ("**Initial Service Period**") and in respect of each successive Service Period thereafter, means the period commencing at 0700 DST on each succeeding January 1<sup>st</sup> and ending immediately prior to 0700 DST on the earlier of:
  - (i) the next occurring January 1<sup>st</sup> in the Term; or
  - (ii) the Expiry Date;

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(dddd) **"Shipper Group"** means the Shipper, and any Affiliate of the Shipper from time to time and references to "any member of the Shipper Group" will be construed accordingly;

(eeee) **"SRC Failure Date"** has the meaning given in Section 4.8(g)(i);

(ffff) **"Surety Bond"** means an irrevocable and self-renewing surety bond, security bond or similar security instrument in favour of FortisBC Energy:

(i) which is in the form and on the terms and conditions agreed and approved in writing by FortisBC Energy (in its sole discretion); and

(ii) which is issued by an institution in Canada licensed to conduct the business of an insurer in the Province of British Columbia which is approved by FortisBC Energy (in its sole discretion) and which meets the Minimum Credit Rating (and for the purposes of this Section 2.1(ffff)(ii) Euler Hermes Canada is approved by FortisBC Energy as long as such institution meets the Minimum Credit Rating); and

(iii) which is capable of being drawn on or called upon at the issuing institution's offices in the City of Vancouver, British Columbia or such other city or municipality within the Province of British Columbia as may be acceptable to FortisBC Energy (in its sole discretion),

and for certainty, a reference to a Surety Bond includes and means the Surety Bond as modified, replaced or renewed or supplemented by any additional surety bond at any time during the Term;

(gggg) **"Target CIAC Amount"** has the meaning given in the Construction Security Agreement;

(hhhh) **"Term"** means the term of this Transportation Agreement which commences on the Commencement Date and subject to any earlier termination of this Transportation Agreement in accordance with Rate Schedule 50 or extension or renewal pursuant to Section 7.1, expires on the Expiry Date;

(iiii) **"Termination Payment"** has the meaning given in Section 5.1;

(jjjj) **"Third Party"** means any Person other than a Party or any of its Affiliates;

(kkkk) **"Third Required Security Amount Reduction"** means a reduction of the Required Security Amount in accordance with Section 4.6(i) to Section 4.6(l) (inclusive);

(llll) **"Third RC Satisfaction Date"** has the meaning given in Section 4.6(k);

(mmmm) **"Third RC Satisfaction Notice"** has the meaning given in Section 4.6(j);

(nnnn) **"Third Reduction Conditions"** has the meaning given in Section 4.6(i);

(oooo) **"Toll Credit"** means the Demand Toll Credit or the Toll Credit (IT), as the context requires;

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(pppp) **"Toll Credit (IT)"** has the meaning given in, and will be calculated in accordance with, Section 6.8;

(qqqq) **"TRC Failure Date"** has the meaning given in Section 4.8(j)(i);

(rrrr) **"Third Reduced Required Security Amount"** means:

(i) in the case where the Shipper has satisfied each Third Reduction Condition other than the Third Reduction Condition set out in 4.6(i)(i):

(A) forty two point five (42.5%) of the then Required Security Amount;  
or

(B) one hundred percent (100%) of the then Required Security Amount less two hundred and four million dollars (\$204,000,000),

whichever is the greater;

(ii) in the case where the Shipper has satisfied each Third Reduction Condition:

(A) thirty five (35%) of the then Required Security Amount or such lesser percentage of the then Required Security Amount as determined by FortisBC Energy, in its sole and absolute discretion;  
or

(B) one hundred percent (100%) of the then Required Security Amount less two hundred and thirty one million dollars (\$231,000,000),

whichever is the greater;

(ssss) **"TSA Rate Floor"** means the Rate Floor as defined in the Table of Charges to Rate Schedule 50 as applicable to the Shipper pursuant to this Transportation Agreement which will, subject to Section 3.2, initially be equal, as at the Commencement Date, to the rate set out in Section 1(k) of the Table of Charges to Rate Schedule 50;

(tttt) **"True Up Date"** has the meaning given in the Construction Security Agreement;

(uuuu) **"Wilful Misconduct"** means any act or failure to act that was intentional and intended to cause or which was in reckless disregard of or wanton indifference to, the foreseeable consequences of such action or failure to act; and

(vvvv) **"Woodfibre Party"** means PEC or WLNG, as the context requires.

**2.2 Interpretation.** Unless the context otherwise requires, in this Transportation Agreement:

(a) the singular includes the plural and conversely and a gender includes all genders;

(b) if a word or phrase is defined, its other grammatical forms have a corresponding meaning;

(c) a reference to a person, corporation, trust, partnership, joint venture, unincorporated body or other entity includes any of them;

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- (d) a reference to a Section or Schedule is a reference to a Section of or a Schedule to this Transportation Agreement;
- (e) a reference to an agreement or document (including a reference to this Transportation Agreement) is to the agreement or document as amended, varied, supplemented, novated or replaced except to the extent prohibited by this Transportation Agreement or that other agreement or document;
- (f) a reference to a party to this Transportation Agreement or another agreement or document includes the party's successors and permitted substitutes (including persons taking by novation) or assigns (and, where applicable, the party's legal personal representatives);
- (g) a reference to legislation or to a provision of legislation includes a modification or re-enactment of it, a legislative provision substituted for it and a regulation, code, by-law, ordinance or statutory instrument issued under it;
- (h) a reference to *dollars* and \$ is to the currency of Canada;
- (i) the word "including" means "including without limitation" and "include" and "includes" will be construed similarly;
- (j) headings and any table of contents or index are for convenience only and do not form part of this Transportation Agreement or affect its interpretation;
- (k) a provision of this Transportation Agreement must not be construed to the disadvantage of a Party merely because that Party was responsible for the preparation of this Transportation Agreement or the inclusion of the provision in this Transportation Agreement;
- (l) a reference to any thing (including a right, obligation or concept) includes a part of that thing, but nothing in this Section 2.2(l) implies that performance of part of an obligation constitutes performance of the obligation;
- (m) if an act is prescribed to be done on a specified day which is not a Business Day, it must be done instead on the next Business Day.

**2.3 Additional Terms.** Subject to Section 2.5, all rates, terms and conditions set out in Rate Schedule 50, as may be amended by FortisBC Energy and approved from time to time by the BCUC, are hereby incorporated by reference in this Transportation Agreement and are in addition to the terms and conditions contained in this Transportation Agreement and bind FortisBC Energy and the Shipper as if set out in this Transportation Agreement.

**2.4 Payment of Amounts.** The Parties acknowledge and agree that, as of the Commencement Date, the work for the Project will have been substantially completed as contemplated by the Construction Security Agreement and that, as of the True Up Date all Project Costs:

- (a) will have been paid to FortisBC Energy; or
- (b) are Recoverable Costs to be recovered through rates for purposes of this Transportation Agreement; or

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- (c) will have been reasonably estimated, and reserved for by FortisBC Energy (and communicated to the Shipper), subject to a final reconciliation to actual costs and designation as being payable to or by the Shipper or as Recoverable Costs, not later than twenty-four (24) months following the True Up Date.

Without limiting the generality of Section 2.3, the Shipper will pay to FortisBC Energy all of the amounts set out in Rate Schedule 50 for the services provided by FortisBC Energy to the Shipper under Rate Schedule 50 and this Transportation Agreement.

**2.5 Conflict.** Where anything in Rate Schedule 50 conflicts with any of the terms and conditions set out in this Transportation Agreement, this Transportation Agreement prevails to the extent of the inconsistency. The General Terms and Conditions of FortisBC Energy do not apply to the services provided by FortisBC Energy to the Shipper under Rate Schedule 50 and this Transportation Agreement.

**2.6 Acknowledgement.** Subject to the terms of this Transportation Agreement, the Shipper agrees to comply with and be bound by all terms and conditions set out in Rate Schedule 50. Without limiting the generality of the foregoing, where the transportation service provided by FortisBC Energy to Shipper under this Transportation Agreement is Interruptible Transportation Service or is otherwise subject to curtailment as set out in Rate Schedule 50, the Shipper acknowledges that it is able to accommodate such interruption or curtailment and releases FortisBC Energy from any liability for the Shipper's inability to accommodate such interruption or curtailment of transportation service.

**2.7 Volume Weighted Average Term.**

- (a) For the purposes of Sections 4.6(a)(iii)(B) and 4.6(i)(i)(B):
  - (i) "Volume Weighted Average Term", as at any relevant determination date, is the sum of each Volume Adjusted Term for all LNG Agreements; and
  - (ii) "Volume Adjusted Term" means, for each LNG Agreement, the product obtained by the application of the following formula:

$$\frac{V}{AV} \times RAT$$

Where,

V is (i) the aggregate volume of Gas (measured at the Receipt Point, net of System Gas and net of fuel and losses at the LNG Facility) which the party to an LNG Offtake Agreement (other than a member of the Shipper Group) is obliged to offtake, or pay in lieu of offtaking, from the LNG Facility in the form and equivalent volume of LNG; or (ii) the aggregate volume of Gas (measured at the Receipt Point, net of System Gas and net of fuel and losses at the LNG Facility) for which the party to an LNG Capacity Agreement (other than a member of the Shipper Group) has committed to pay for liquefaction capacity or services at the LNG Facility; as applicable

AV is the aggregate of V for all LNG Agreements

RAT is, as of the date of determination, the number of years remaining in the term of that LNG Agreement.

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- (b) Without limiting Section 4.6(b) or Section 4.6(j), the Shipper shall ensure that each of the First RC Satisfaction Notice and the Third RC Satisfaction Notice contain or are accompanied by documents which contain in reasonable detail the Shipper's calculations of the Volume Weighted Average Term including details of any measurements, amounts or other information used or applied for the purposes of the formula set out in Section 2.7(a).

**2.8 Firm Transportation Service.** The Shipper acknowledges and agrees that notwithstanding anything in this Transportation Agreement or Rate Schedule 50 to the contrary, the Incremental System Upgrades will be taken to be capable of providing the Firm Transportation Service on the date on which the Incremental System Upgrades are able to transport and deliver to the Shipper Gas in accordance with Section 5.1 of Rate Schedule 50 irrespective of whether or not the Shipper has as at such date delivered the relevant quantity of Gas to FortisBC Energy at the Receipt Point or is able as at such date to take delivery of the relevant quantity of Gas from FortisBC Energy at the Delivery Point.

**2.9 Effective Date.**

- (a) On or within two (2) Days after the date on which:
  - (i) the Incremental System Upgrades are completed and are, subject to Section 2.8, capable of providing the Firm Transportation Service; and
  - (ii) FortisBC Energy obtains all certificates, licenses, permits and authorizations necessary for the receipt, transportation and delivery of Gas pursuant to this Transportation Agreement and Rate Schedule 50.

FortisBC Energy shall provide written notice to the Shipper of the same ("**Effective Date Notice**"). The date on which the Shipper receives the Effective Date Notice shall constitute the Effective Date for the purposes of this Transportation Agreement and Rate Schedule 50.

- (b) Within five (5) Days after receipt of the Effective Date Notice the Shipper shall give notice to FortisBC Energy specifying the date which shall constitute the Commencement Date for the purposes of this Transportation Agreement and Rate Schedule 50, which date shall not be more than (90) Days after the Effective Date ("**Commencement Date Notice**"). If the Shipper fails for any reason to give FortisBC Energy the Commencement Date Notice in accordance with this Section 2.9(b), then notwithstanding anything in this Transportation Agreement or Rate Schedule 50 to the contrary, the Commencement Date for the purposes of this Transportation Agreement and Rate Schedule 50 shall be that date which is ninety (90) Days after the Effective Date.

**2.10 Pre-Commissioning Period.**

- (a) Subject to Section 2.10(b), FortisBC Energy and the Shipper acknowledge and agree that:
  - (i) for the purposes of this Transportation Agreement the "**Pre-Commissioning Period**" means the period of time prior to the Commencement Date during which FortisBC Energy shall provide Interruptible Transportation Service to the Shipper for the purposes of commissioning the LNG Facility;

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- (ii) the Pre-Commissioning Period shall commence on the date specified in a notice from the Shipper to FortisBC Energy ("PCP Notice");
  - (iii) the specified date in the PCP Notice may be during October 2025 or such other subsequent date agreed in writing by the Parties but such specified date shall not be earlier than thirty (30) days following the date the PCP Notice is given by the Shipper to FortisBC Energy; and
  - (iv) the PCP Notice shall also specify the Requested Quantity and Day(s) for such Interruptible Transportation Service.
- (b) The Shipper acknowledges and agrees that:
- (i) the Gas delivered by FortisBC Energy for the purposes of commissioning the LNG Facility will be delivered by a part of the System which may or may not include some or all of the Incremental System Upgrades;
  - (ii) the obligation of FortisBC Energy to deliver Gas for the purposes of the commissioning of the LNG Facility will be conditional upon FortisBC Energy, by October 2025 (or such other subsequent date agreed in writing by the Parties pursuant to Section 2.10(a)(iii)):
    - (A) having received (on terms and conditions satisfactory to FortisBC Energy) all permits and approvals necessary for the construction and installation of an offtake pipe which will deliver Gas from the part of the System referred to in Section 2.10(b)(i) to the Delivery Point or other place adjacent to the LNG Facility designated for the receipt of such Gas; and
    - (B) having constructed and installed such offtake pipe;
  - (iii) the cost and expense of the construction and installation and, if applicable, the demolition and removal, of the offtake pipe referred to in Section 2.10(b)(ii) (including the interconnection of that offtake pipe to the Delivery Point or other place adjacent to the LNG Facility designated for the receipt of commissioning Gas) will constitute Project Costs for the purposes of the Construction Security Agreement, and such construction and installation will be undertaken pursuant to, and will be governed exclusively by, the terms and conditions of the Construction Security Agreement; and
  - (iv) nothing in this Section 2.10 constitutes a warranty, representation, guarantee, commitment, undertaking or covenant (whether express, implied or otherwise) that by October 2025 (or such other subsequent date agreed in writing by the Parties pursuant to Section 2.10(a)(iii)) the Incremental System Upgrades will be capable of providing the Firm Transportation Service.

**2.11 Commitment Fees.** FortisBC Energy acknowledges and agrees that the Commitment Fees shall be credited against any charges to be paid by the Shipper to FortisBC Energy pursuant to Section 10 of Rate Schedule 50.

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**3. REIMBURSEMENT OF SHIPPER'S CONTRIBUTION IN AID OF CONSTRUCTION AND FIRM DEMAND TOLL APPLICABLE TO THE SHIPPER**

**3.1 Reimbursement of CIAC.**

(a) During the period from the Commencement Date until the end of the fifteenth (15<sup>th</sup>) Service Period ("**Adjustment Period**"), if:

- (i) FortisBC Energy proposes to make an adjustment to the Firm Demand Toll applicable to the Shipper, in accordance with Section 4.1 of the Table of Charges to Rate Schedule 50 and Section 3.2, as a result of one or more new customers or shippers being added under Rate Schedule 50; and
- (ii) an adjustment to the Firm Demand Toll applicable to the Shipper under Rate Schedule 50 is required as a result of the addition of such new customers or shippers; and
- (iii) the result of calculating such adjustment solely on the basis of Section 4.1(a) of the Table of Charges to Rate Schedule 50 (taking into account the Remaining CIAC Amount at the time the calculation is made) would be a Notional Calculated Toll calculated in accordance with Section 4.1 of the Table of Charges to Rate Schedule 50 that is less than the Firm Demand Toll for all other Rate Schedule 50 shippers for the then current Service Period;

then,

(iv) FortisBC Energy will determine the portion of the Shipper's CIAC made pursuant to the Construction Security Agreement and Rate Schedule 50 to be reimbursed to the Shipper. The reimbursable portion of the Shipper's CIAC ("**Reimbursement Amount**") will be determined by FortisBC Energy, acting reasonably, as that amount by which the Cost of Service caused by the Reimbursement Amount will equal the difference between the Notional Calculated Toll and the Firm Demand Toll applicable to the Shipper for the then current Service Period multiplied by the Base Contract Demand multiplied by the number of days in the Service Period. Upon the Reimbursement Amount being determined by FortisBC Energy, FortisBC Energy will notify the Shipper in writing of the Reimbursement Amount;

(v) FortisBC Energy will pay to the Shipper the lesser of:

- (A) the Reimbursement Amount; and
- (B) the Remaining CIAC Amount,

and for all purposes shall determine any other adjustments under Section 4.1 of the Table of Charges to Rate Schedule 50 accordingly; and

(vi) the amount payable by FortisBC Energy to Shipper in accordance with Section 3.1(a)(v) (if any) shall be due and payable on the date that is thirty (30) Days after the date that Shipper delivers any supplemental Security

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required in accordance with Section 4.4(b) as a result of the adjustment to Shipper's CIAC (if any).

- (b) FortisBC Energy may, at any time during the Adjustment Period or after the expiration of the Adjustment Period, apply to the BCUC for approval of a mechanism to effect further reimbursements of the Shipper's CIAC after the end of the Adjustment Period as a result of one or more customers being added under Rate Schedule 50 ("Future Reimbursements"). For greater certainty:
  - (i) if the BCUC does not approve FortisBC Energy's application to the BCUC in respect of a mechanism for Future Reimbursements, or if FortisBC Energy concludes, in its sole discretion, acting reasonably, that the terms of a BCUC order approving such a mechanism are unacceptable to FortisBC Energy, then FortisBC Energy shall be under no obligation to make such Future Reimbursements to Shipper after the expiry of the Adjustment Period; or
  - (ii) if the BCUC does approve FortisBC Energy's application to the BCUC in respect of a mechanism for Future Reimbursements and the terms of the BCUC order approving such mechanism do not impose any terms, conditions or undertakings in addition to those (if any) as expressly set out by FortisBC Energy in its application (as determined by FortisBC Energy in its sole discretion), then FortisBC Energy will be taken to have agreed to make Future Reimbursements subject to, and in accordance with, such mechanism and the relevant BCUC order.
- (c) For the avoidance of doubt, the Shipper acknowledges and agrees that all Future Reimbursements will constitute New Exposure for the purposes of this Transportation Agreement.

### 3.2 Firm Demand Toll applicable to the Shipper

- (a) For the purposes of determining the tolls in accordance with Section 2.3 (b) and 4.1 (a) (ii) E of the Table of Charges to Rate Schedule 50, the Cost of Service of the CTS Expansion projects at and between the Cape Horn Valve Assembly and the Coquitlam Gate Station, at and between the Nichol Valve Assembly and the Port Mann Crossover Station and at and between the Nichol Valve Assembly and the Roebuck Valve Assembly as defined in Section 1.1 (eee) of the Rate Schedule 50 tariff plus the Cost of Service of the BTA Termination Payment, will be six million six hundred and twenty seven thousand five hundred dollars (\$6,627,500).
- (b) Subject to Section 3.2(d), the Firm Demand Toll applicable to the Shipper will be adjusted in accordance with Section 3.2(c).
- (c) The Firm Demand Toll which will be applicable to the Shipper in any Service Period (other than the Initial Service Period) will be the greater of the amount determined under Section 3.2(c)(i) by the application of one of the formulas set out in Section 3.2(c)(i) (as applicable) or Section 3.2(c)(iii).
  - (i) In the case where Section 3.1(a) applies and  $A + B$  is less than 1 then  $FDT = 1 \times C$

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In the case where Section 3.1(a) applies and  $A + B$  is greater than or equal to 1 then  $FDT = A + B \times C$

- (ii) In the case where Section 3.1(a) does not apply then  $FDT = A + B \times C$

Where,

$FDT$  is the Firm Demand Toll applicable to the Shipper for the next Service Period

$A$  is the Firm Demand Toll for the next Service Period (applicable to shippers or customers other than the Shipper) as determined in accordance with Section 4.1 of the Table of Charges to Rate Schedule 50

$B$  is the Firm Demand Toll for the then current Service Period (applicable to shippers or customers other than the Shipper) as determined in accordance with Section 4.1 of the Table of Charges to Rate Schedule 50

$C$  is the Firm Demand Toll applicable to the Shipper for the then current Service Period

- (iii) the TSA Rate Floor.
- (d) Sections 3.2(a) and 3.2(c) will cease to apply and be operative upon the expiration of the Adjustment Period or if before the expiration of the Adjustment Period, all of the Shipper's CIAC is reimbursed to the Shipper in accordance with Section 3.1.
- (e) If Sections 3.2(a) and 3.2(c) cease to apply and be operative in accordance with Section 3.2(d) then the Firm Demand Toll applicable to the Shipper for the balance, if any, of the then current Service Period and the next and any subsequent Service Period during the Term will be determined in accordance with Section 4.1 of the Table of Charges to Rate Schedule 50.

#### 4. SECURITY AND CREDIT

**4.1 Determination of Security.** Without limiting Section 2.5 and notwithstanding Sections 13.1, 13.2, 13.3, 13.4, of Rate Schedule 50, the Parties acknowledge and agree that for all purposes under Rate Schedule 50 and this Transportation Agreement, the nature, type and form of Security required by FortisBC Energy and the Required Security Amount will be determined in accordance with this Section 4.

**4.2 Form and Amount of Security.** Subject to Sections 4.4, 4.5, 4.6, 4.7 and 4.8 and unless expressly agreed otherwise by FortisBC Energy, during the Term:

- (a) the nature, type and form of the Security required by FortisBC Energy will be one (1) or more Letters of Credit;
- (b) on and after the First RC Satisfaction Date the Security required by FortisBC Energy may consist of one (1) or more Letters of Credit and one (1) or more Surety Bonds; and
- (c) the Security shall be in an amount not less than one hundred percent (100%) of the Required Security Amount.

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Notwithstanding the foregoing, FortisBC Energy may, at any time, in its sole discretion, elect to accept a guarantee (on terms and conditions, and in an amount of the Required Security Amount, satisfactory to FortisBC Energy) from a Third Party as Security.

**4.3 Notices.**

- (a) Project Completion: Not later than twenty (20) Business Days prior to its expected occurrence, FortisBC Energy shall provide written notice to the Shipper of the expected Completion Date, and if delays are expected periodic and regular updates until the Completion Date is finally confirmed.
- (b) Security Amount: Within twenty (20) Business Days prior to the Completion Date and from time to time thereafter, FortisBC Energy will deliver a written notice to the Shipper advising the Shipper of the Required Security Amount FortisBC Energy has determined is required in accordance with Section 4.4.

**4.4 Required Security Amount.**

- (a) Subject to Section 4.4(b), the Required Security Amount shall be determined as follows:
  - (i) an amount determined by FortisBC Energy taking into account the current or expected net book value of the Incremental System Upgrades (including accumulated depreciation, as applicable), the net book value of the Target CIAC Amount or the net book value of the Remaining CIAC Amount (including accumulated depreciation, as applicable), the Contract Demand (including the Seasonal Firm Contract Demand, if any), the Term and any other matter FortisBC Energy reasonably considers relevant including the Creditworthiness of the Shipper, provided that such amount may not exceed:
    - (A) in connection with the first such determination, an amount equal to the net book value, as of June 30<sup>th</sup> in the year of such determination, of the Incremental System Upgrades, less the net book value of the Target CIAC Amount; and
    - (B) in respect any subsequent determination or adjustment, the current net book value, as of June 30<sup>th</sup> in the year of such determination, of the Incremental System Upgrades, less the net book value of the Remaining CIAC Amount; and
  - (ii) an amount determined by FortisBC Energy, acting reasonably, and sent by written notice to Shipper not later than twenty (20) Business Days prior to the date required, which would be required to prevent or remedy a FortisBC Energy Rating Downgrade; or
  - (iii) any greater amount required by the BCUC.

For greater certainty, if FortisBC Energy applies to the BCUC under Section 4.4(a)(iii) then subject to Section 4.4(b), FortisBC Energy will not seek a security amount greater than the Required Security Amount as adjusted pursuant to this Transportation Agreement.

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- (b) Notwithstanding anything else in this Transportation Agreement to the contrary, the Shipper acknowledges and agrees that:
- (i) subject to Section 4.4(b)(ii) and Section 4.4(c), if any New Exposure arises before the fifth anniversary of the Commencement Date then the Shipper shall deliver to FortisBC additional Security in an amount equal to one hundred percent (100%) of that New Exposure;
  - (ii) the Shipper shall promptly (and in any event within ten (10) Business Days after notification from FortisBC Energy of the New Exposure referred to in Section 4.4(b)(i)), at its cost and expense, deliver to FortisBC Energy additional Security (whether by way of increasing the face value of any existing Security or delivering new instruments of Security), such that, in either case and without limiting and in addition to the obligations of the Shipper under this Agreement to deliver Security in an amount equal to the Required Security Amount, such additional Security comprises Security in an amount equal to one hundred percent (100%) of that New Exposure; and
  - (iii) subject to Section 4.4(b)(iv), if any New Exposure arises on or after the fifth anniversary of the Commencement Date then as long as the Shipper has satisfied the Second Reduction Conditions the Shipper shall only be required to deliver to FortisBC additional Security in an amount equal to eighty percent (80%) of that New Exposure but, for certainty, if as at the fifth anniversary of the Commencement Date the Shipper has not satisfied the Second Reduction Conditions then the Shipper shall deliver to FortisBC additional Security in an amount equal to one hundred percent (100%) of that New Exposure; and
  - (iv) the Shipper shall promptly (and in any event within ten (10) Business Days after notification from FortisBC Energy of the New Exposure referred to in Section 4.4(b)(iii)), at its cost and expense, deliver to FortisBC Energy additional Security (whether by way of increasing the face value of any existing Security or delivering new instruments of Security), such that, in either case and without limiting and in addition to the obligations of the Shipper under this Agreement to deliver Security in an amount equal to the Required Security Amount, such additional Security comprises Security in an amount equal to eighty percent (80%) of that New Exposure.
- (c) If at any time after the Shipper has delivered Security to FortisBC Energy pursuant to Section 4.4(b)(i) or 4.4(b)(iii) the Shipper satisfies the Second Reduction Conditions in accordance with Section 4.6(g) then on or within twelve (12) Business Days after the Second RC Satisfaction Date, FortisBC Energy shall return and release to the Shipper an amount of such Security so that upon the return and release of such amount, the amount of that Security is equal to eighty percent (80%) of the New Exposure referred to in Section 4.4(b)(i).
- (d) For certainty, the Shipper acknowledges and agrees that Section 4.6 does not apply to any New Exposure or any Security delivered in respect of New Exposure.
- (e) FortisBC Energy and the Shipper agree that for the purposes of this Agreement the amount of the Exposure and, if applicable the amount of any New Exposure, will be determined by FortisBC Energy on June 30 during each year of the Term.

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**4.5 Obligation to Deliver Initial Security.** If FortisBC Energy delivers written notice to the Shipper in respect of the Required Security Amount in accordance with Section 4.3, then the Shipper shall:

- (a) on or before the Completion Date, deliver to FortisBC Energy the Security in an amount not less than eighty percent (80%) of the Required Security Amount;
- (b) without limiting Section 4.4(b), on or within twenty (20) Business Days after the True Up Date, deliver to FortisBC Energy additional Security (whether by way of increasing the face value of the existing Security referred to in Section 4.5(a) or delivering new instruments of Security), such that, in either case the Shipper has delivered Security in an amount equal to one hundred percent (100%) of the Required Security Amount.

**4.6 Reduction of Required Security Amount.**

- (a) Subject to Section 4.4(a)(ii) and Section 4.8, at any time after the second anniversary of the Commencement Date the amount of the Security that the Shipper is required to deliver in accordance with this Section 4 may be reduced to:
  - (i) sixty five percent (65%) of the then Required Security Amount; or
  - (ii) one hundred percent (100%) of the then Required Security Amount less one hundred and fifty two million dollars (\$152,000,000),

whichever is the greater amount ("**First Reduced Required Security Amount**"), subject to satisfaction of all of the following conditions by the Shipper ("**First Reduction Conditions**"):

- (iii) the execution by one or more of members of the Shipper Group (as the case may be) of one or more LNG Agreements:
  - (A) by which the counterparty or counterparties (as the case may be) to such LNG Agreements agree to offtake, or pay in lieu of offtaking, LNG from the LNG Facility, or utilize Gas liquefaction capacity, or pay in lieu of utilizing Gas liquefaction capacity at the LNG Facility, (either alone or in aggregate) based on an annual volume of feed Gas which is not less than an average of ninety percent (90%) of the aggregate Base Contract Demand in the corresponding Service Period; and
  - (B) for which the Volume Weighted Average Term for the LNG Agreement or all LNG Agreements (as the case may be) is equal to or exceeds twelve (12) years from the Commencement Date; and
  - (C) pursuant to which the counterparty or counterparties to such LNG Agreements have paid, and are not in default of payment of, tolls or other compensation payable by them under such LNG Agreements;
- (iv) all of the obligations of each party to the LNG Agreements are not subject to the satisfaction of any outstanding conditions precedent;
- (v) the Shipper or a member of the Shipper Group (as the case may be) has for the benefit of each other member of the Shipper Group effected and

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maintained in full force and effect from the Commencement Date to the second anniversary of the Commencement Date (or where there has within such period been any failure to effect and maintain such failure has been remedied within forty (40) Business Days of such failure) policies of insurance with reputable insurance companies that are licensed to conduct the business of an insurer in the Province of British Columbia and in such amounts and covering such risks as are usually effected and maintained by reasonably prudent participants engaged in similar businesses and owning and operating facilities the same as or similar to the LNG Facility;

- (vi) in the eighteen (18) months prior to the date on which the First RC Satisfaction Notice is given to FortisBC Energy there has been no material default (which has not been remedied) under any LNG Agreement;
  - (vii) in the eighteen (18) months prior to the date on which the First RC Satisfaction Notice is given to FortisBC Energy the Shipper has not materially breached, or failed to perform, any covenant or obligation of the Shipper under this Transportation Agreement, which has not been remedied in accordance with this Transportation Agreement; and
  - (viii) without limiting Section 4.6(a)(vii), in the eighteen (18) months prior to the date on which the First RC Satisfaction Notice is given to FortisBC Energy the Shipper has, in accordance with this Transportation Agreement, paid in full all amounts payable by the Shipper to FortisBC Energy under Rate Schedule 50 and this Transportation Agreement which were due and payable before or as at the First RC Satisfaction Notice. Notwithstanding the foregoing, the Shipper will not be taken to have failed to satisfy the First Reduction Condition set out in this Section 4.6(a)(viii) if in the eighteen (18) months immediately preceding the date on which the First RC Satisfaction Notice is given to FortisBC Energy the Shipper has failed on no more than two (2) occasions to pay any amount payable by the Shipper to FortisBC Energy under Rate Schedule 50 and this Transportation Agreement by the due date for payment and on each such occasion the Shipper made payment of such unpaid amount within five (5) Business Days after the due date for payment.
- (b) If on or at any time after the second anniversary of the Commencement Date the Shipper has satisfied the First Reduction Conditions and the Shipper desires that the amount of the Security that the Shipper is required to deliver in accordance with this Section 4 be reduced in accordance with Section 4.6(a) then the Shipper shall give to FortisBC Energy a notice which is accompanied by a Satisfaction Certificate signed by a senior officer of the Shipper by which the Shipper certifies that the First Reduction Conditions have been satisfied ("**First RC Satisfaction Notice**"). The First RC Satisfaction Notice shall contain or be accompanied by documents which record or which are reasonable evidence of satisfaction of the First Reduction Conditions. FortisBC Energy acknowledges and agrees that the Shipper may, acting reasonably, redact such documents to remove commercially sensitive or proprietary information of the Shipper or of any Third Party which is not required to demonstrate satisfaction by the Shipper of the First Reduction Conditions.
- (c) If within twenty (20) Business Days of the receipt by FortisBC Energy of the First RC Satisfaction Notice and the documents which record or which are reasonable

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evidence of satisfaction of the First Reduction Conditions, FortisBC Energy does not give to the Shipper a notice specifying in reasonable detail why the First Reduction Conditions have not been satisfied, then the First Reduction Conditions will be taken to have been satisfied on the expiration of that twenty (20) Business Day period ("**First RC Satisfaction Date**").

- (d) On or within twelve (12) Business Days after the First RC Satisfaction Date, FortisBC Energy shall return and release to the Shipper an amount of the Security so that upon the return and release of such amount, the amount of the Security is equal to the First Reduced Required Security Amount.
- (e) Subject to Section 4.4(a)(ii) and Section 4.8, at any time after the fifth anniversary of the Commencement Date the amount of the Security that the Shipper is required to deliver in accordance with this Section 4 may be reduced to:
  - (i) fifty percent (50%) of the then Required Security Amount; or
  - (ii) one hundred percent (100%) of the then Required Security Amount less two hundred million dollars (\$200,000,000),

whichever is the greater amount ("**Second Reduced Required Security Amount**"), subject to satisfaction of all of the following conditions by the Shipper ("**Second Reduction Conditions**"):

- (iii) in the eighteen (18) months prior to the date on which the Second RC Satisfaction Notice is given to FortisBC Energy there has been no material default (which has not been remedied) under any LNG Agreement;
- (iv) the Shipper or a member of the Shipper Group (as the case may be) has for the benefit of each other member of the Shipper Group effected and maintained in full force and effect from the second anniversary of the Commencement Date to the fifth anniversary of the Commencement Date (or where there has within such period been any failure to effect and maintain such failure has been remedied within forty (40) Business Days of such failure) policies of insurance with reputable insurance companies that are licensed to conduct the business of an insurer in the Province of British Columbia and in such amounts and covering such risks as are usually effected and maintained by reasonably prudent participants engaged in similar businesses and owning and operating facilities the same as or similar to the LNG Facility;
- (v) in the eighteen (18) months prior to the date on which the Second RC Satisfaction Notice is given to FortisBC Energy the Shipper has not materially breached, or failed to perform, any covenant or obligation of the Shipper under this Transportation Agreement which has not been remedied in accordance with this Transportation Agreement;
- (vi) without limiting Section 4.6(e)(v), in the eighteen (18) months prior to the date on which the Second RC Satisfaction Notice is given to FortisBC Energy the Shipper has, in accordance with this Transportation Agreement, paid in full all amounts payable by the Shipper to FortisBC Energy under Rate Schedule 50 and this Transportation Agreement which were due and payable before or as at the date of the Second RC Satisfaction Notice.

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Notwithstanding the foregoing, the Shipper will not be taken to have failed to satisfy the Second Reduction Condition set out in this Section 4.6(e)(vi) if in the eighteen (18) months immediately preceding the date on which the Second RC Satisfaction Notice is given to FortisBC Energy the Shipper has failed on no more than two (2) occasions to pay any amount payable by the Shipper to FortisBC Energy under Rate Schedule 50 and this Transportation Agreement by the due date for payment and on each such occasion the Shipper made payment of such unpaid amount within five (5) Business Days after the due date for payment; and

- (vii) the Shipper has satisfied the First Reduction Conditions.
- (f) If on or at any time after the fifth anniversary of the Commencement Date the Shipper has satisfied the Second Reduction Conditions and the Shipper desires that the amount of the Security that the Shipper is required to deliver in accordance with this Section 4 be reduced in accordance with Section 4.6(e) then the Shipper shall give to FortisBC Energy a notice which is accompanied by a Satisfaction Certificate signed by a senior officer of the Shipper by which the Shipper certifies that the Second Reduction Conditions have been satisfied ("**Second RC Satisfaction Notice**"). The Second RC Satisfaction Notice shall contain or be accompanied by documents which record or which are reasonable evidence of satisfaction of the Second Reduction Conditions. FortisBC Energy acknowledges and agrees that the Shipper may redact such documents to remove commercially sensitive or proprietary information of the Shipper or any Third Party which is not required to demonstrate satisfaction by the Shipper of the Second Reduction Conditions.
- (g) If within twenty (20) Business Days of the receipt by FortisBC Energy of the Second RC Satisfaction Notice and the documents which record or which are reasonable evidence of satisfaction of the Second Reduction Conditions, FortisBC Energy does not give to the Shipper a notice specifying in reasonable detail why the Second Reduction Conditions have not been satisfied, then the Second Reduction Conditions will be taken to have been satisfied on the expiration of that twenty (20) Business Day period ("**Second RC Satisfaction Date**").
- (h) On or within twelve (12) Business Days after the Second RC Satisfaction Date, FortisBC Energy shall return and release to the Shipper an amount of the Security so that upon the return and release of such amount, the amount of the Security is equal to the Second Reduced Required Security Amount.
- (i) Subject to Section 4.4(a)(ii) and Section 4.8, at any time after the tenth anniversary of the Commencement Date the amount of the Security that the Shipper is required to deliver in accordance with this Section 4 may be reduced to be that amount which is equal to the Third Reduced Required Security Amount subject to satisfaction of all of the following conditions by the Shipper ("**Third Reduction Conditions**"):
  - (i) the execution by one or more of members of the Shipper Group (as the case may be) of extensions or renewals of the LNG Agreements (referred to in Section 4.6(a)(iii)), or any of them, or the execution of any new or replacement LNG Agreements;

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- (A) by which the counterparty or counterparties (as the case may be) to such LNG Agreements agree to offtake, or pay in lieu of offtaking, LNG from the LNG Facility, or utilize Gas liquefaction capacity, or pay in lieu of utilizing Gas liquefaction capacity at the LNG Facility (either alone or in aggregate) based on an annual volume of feed Gas which is not less than an average of fifty percent (50%) of the aggregate Base Contract Demand in the corresponding Service Period; and
  - (B) for which the Volume Weighted Average Term for the LNG Agreement or all LNG Agreements (as the case may be) is equal to or exceeds twenty (20) years from the Commencement Date; and
  - (C) pursuant to which the counterparty or counterparties to such LNG Agreements have paid, and are not in default of payment of, tolls or other compensation payable by them under such LNG Agreements;
- (ii) all of the obligations of each party to the extended or renewed LNG Agreements are not subject to the satisfaction of any outstanding conditions precedent;
  - (iii) in the eighteen (18) months prior to the date on which the Third RC Satisfaction Notice is given to FortisBC Energy there has been no material default (which has not been remedied) under, or termination or cancellation of, any LNG Agreement;
  - (iv) the Shipper or a member of the Shipper Group (as the case may be) has for the benefit of each other member of the Shipper Group effected and maintained in full force and effect from the fifth anniversary of the Commencement Date to the tenth anniversary of the Commencement Date (or where there has within such period been any failure to effect and maintain such failure has been remedied within forty (40) Business Days of such failure) policies of insurance with reputable insurance companies that are licensed to conduct the business of an insurer in the Province of British Columbia and in such amounts and covering such risks as are usually effected and maintained by reasonably prudent participants engaged in similar businesses and owning and operating facilities the same as or similar to the LNG Facility;
  - (v) in the eighteen (18) months prior to the date on which the Third RC Satisfaction Notice is given to FortisBC Energy the Shipper has not materially breached, or failed to perform, any covenant or obligation of the Shipper under this Transportation Agreement which has not been remedied in accordance with this Transportation Agreement; and
  - (vi) without limiting Section 4.6(i)(v), in the eighteen (18) months prior to date on which the Third RC Satisfaction Notice is given to FortisBC Energy the Shipper has, in accordance with this Transportation Agreement, paid in full all amounts payable by the Shipper to FortisBC Energy under Rate Schedule 50 and this Transportation Agreement which were due and payable before or as at the date of the Third RC Satisfaction Notice. Notwithstanding the foregoing, the Shipper will not be taken to have failed to satisfy the Third Reduction Condition set out in this Section 4.6(i)(vi) if in

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the eighteen (18) months immediately preceding the date on which the Third RC Satisfaction Notice is given to FortisBC Energy the Shipper has failed on no more than two (2) occasions to pay any amount payable by the Shipper to FortisBC Energy under Rate Schedule 50 and this Transportation Agreement by the due date for payment and on each such occasion the Shipper made payment of such unpaid amount within five (5) Business Days after the due date for payment.

- (j) If on or at any time after the tenth anniversary of the Commencement Date the Shipper has satisfied the Third Reduction Conditions and the Shipper desires that the amount of the Security that the Shipper is required to deliver in accordance with this Section 4 be reduced in accordance with Section 4.6(i) then the Shipper shall give to FortisBC Energy a notice which is accompanied by a Satisfaction Certificate signed by a senior officer of the Shipper by which the Shipper certifies that the Third Reduction Conditions have been satisfied ("**Third RC Satisfaction Notice**"). The Third RC Satisfaction Notice shall contain or be accompanied by documents which record or which are reasonable evidence of satisfaction of the Third Reduction Conditions. FortisBC Energy acknowledges and agrees that the Shipper may redact such documents to remove commercially sensitive or proprietary information of the Shipper or any Third Party which is not required to demonstrate satisfaction by the Shipper of the Third Reduction Conditions.
- (k) If within twenty (20) Business Days of the receipt by FortisBC Energy of the Third RC Satisfaction Notice and the documents which record or which are reasonable evidence of satisfaction of the Third Reduction Conditions, FortisBC Energy does not give to the Shipper a notice specifying in reasonable detail why the Third Reduction Conditions have not been satisfied, then the Third Reduction Conditions will be taken to have been satisfied on the expiration of that twenty (20) Business Day period ("**Third RC Satisfaction Date**"). For the purposes of Section 4.6(i) and 4.6(j) only, the Shipper will be taken to have satisfied the Third Reduction Conditions if the Shipper has satisfied each Third Reduction Condition other than the Third Reduction Condition set out in 4.6(i)(i).
- (l) On or within twelve (12) Business Days after the Third RC Satisfaction Date, FortisBC Energy shall return and release to the Shipper an amount of the Security so that upon the return and release of such amount, the amount of the Security is equal to the Third Reduced Required Security Amount.
- (m) Subject to Section 4.4(a)(ii) and Section 4.8, at any time after the fifteenth anniversary of the Commencement Date the amount of the Security that the Shipper is required to deliver in accordance with this Section 4 may be reduced to be that amount which is equal to the Fourth Reduced Required Security Amount subject to satisfaction of all of the following conditions by the Shipper ("**Fourth Reduction Conditions**"):
  - (i) in the eighteen (18) months prior to the date on which the Fourth RC Satisfaction Notice is given to FortisBC Energy there has been no material default (which has not been remedied) under, or termination or cancellation of, any LNG Agreement;
  - (ii) in the eighteen (18) months prior to the date on which the Fourth RC Satisfaction Notice is given to FortisBC Energy the Shipper has not materially breached, or failed to perform, any covenant or obligation of the

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Shipper under this Transportation Agreement which has not been remedied in accordance with this Transportation Agreement;

- (iii) without limiting Section 4.6(m)(ii), in the eighteen (18) months prior to the date on which the Fourth RC Satisfaction Notice is given to FortisBC Energy the Shipper has, in accordance with this Transportation Agreement, paid in full all amounts payable by the Shipper to FortisBC Energy under Rate Schedule 50 and this Transportation Agreement which were due and payable before or as at the date of the Fourth RC Satisfaction Notice. Notwithstanding the foregoing, the Shipper will not be taken to have failed to satisfy the Fourth Reduction Condition set out in this Section 4.6(m)(iii) if in the eighteen (18) months immediately preceding the date on which the Fourth RC Satisfaction Notice is given to FortisBC Energy the Shipper has failed on no more than two (2) occasions to pay any amount payable by the Shipper to FortisBC Energy under Rate Schedule 50 and this Transportation Agreement by the due date for payment and on each such occasion the Shipper made payment of such unpaid amount within five (5) Business Days after the due date for payment; and
- (iv) the Shipper has satisfied the Third Reduction Conditions.
- (n) If on or at any time after the fifteenth anniversary of the Commencement Date the Shipper has satisfied the Fourth Reduction Conditions and the Shipper desires that the amount of the Security that the Shipper is required to deliver in accordance with this Section 4 be reduced in accordance with Section 4.6(m) then the Shipper shall give to FortisBC Energy a notice which is accompanied by a Satisfaction Certificate signed by a senior officer of the Shipper by which the Shipper certifies that the Fourth Reduction Conditions have been satisfied ("**Fourth RC Satisfaction Notice**"). The Fourth RC Satisfaction Notice shall contain or be accompanied by documents which record or which are reasonable evidence of satisfaction of the Fourth Reduction Conditions. FortisBC Energy acknowledges and agrees that the Shipper may redact such documents to remove commercially sensitive or proprietary information of the Shipper or any Third Party which is not required to demonstrate satisfaction by the Shipper of the Fourth Reduction Conditions.
- (o) If within twenty (20) Business Days of the receipt by FortisBC Energy of the Fourth RC Satisfaction Notice and the documents which record or which are reasonable evidence of satisfaction of the Fourth Reduction Conditions, FortisBC Energy does not give to the Shipper a notice specifying in reasonable detail why the Fourth Reduction Conditions have not been satisfied, then the Fourth Reduction Conditions will be taken to have been satisfied on the expiration of that twenty (20) Business Day period ("**Fourth RC Satisfaction Date**").
- (p) On or within twelve (12) Business Days after the Fourth RC Satisfaction Date, FortisBC Energy shall return and release to the Shipper an amount of the Security so that upon the return and release of such amount, the amount of the Security is equal to the Fourth Reduced Required Security Amount.

#### 4.7 Surety Bonds.

- (a) Subject to Section 4.8, Sections 4.7(b) and 4.7(c) will apply on and after the First RC Satisfaction Date.

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- (b) Subject to Section 4.7(c), the Shipper, at its cost and expense, may, in partial satisfaction of its obligations under this Section 4 to deliver to FortisBC Energy Security in an amount equal to the Required Security Amount, deliver to FortisBC Energy one (1) or more Surety Bonds.
- (c) If the Shipper delivers to FortisBC Energy Security one (1) or more Surety Bonds in accordance with Section 4.7(b) then:
  - (i) the amount of the Surety Bond or Surety Bonds (as the case may be) shall not exceed (either alone or in aggregate) thirty three percent (33%) of the then Required Security Amount (which, for certainty, will be the Required Security Amount prior to adjustment in accordance with Section 4.7(c)(ii)) but in no event may the amount of the Surety Bond or Surety Bonds (as the case may be) exceed (either alone or in aggregate) fifty million dollars (\$50,000,000);
  - (ii) notwithstanding any other provision of this Agreement to the contrary, the amount of the then Required Security Amount will be increased by an amount that is equal to fifty percent (50%) of the amount of the Surety Bond or Surety Bonds delivered in accordance with Section 4.7(b); and
  - (iii) concurrently with the delivery of one (1) or more Surety Bonds in accordance with Section 4.7(b) the Shipper shall, at its cost and expense, either:
    - (A) increase the face value of any existing Letter of Credit; or
    - (B) deliver to FortisBC Energy one (1) or more Letters of Credit,

such that, in either case, the Letter of Credit of Letters of Credit and the Surety Bond or Surety Bonds delivered to FortisBC Energy together comprise Security in an amount equal to the Required Security Amount as determined in accordance with Section 4.7(c)(ii).

For illustrative purposes only, if as at the date the Shipper is entitled to deliver a Surety Bond pursuant to Section 4.7(b) the then Required Security Amount is three hundred million dollars (\$300,000,000) then the maximum permissible amount of the Surety Bond will be fifty million dollars (\$50,000,000) and the Required Security Amount will be increased to three hundred and twenty five million dollars (\$325,000,000).

- (d) Subject to Section 4.8, Sections 4.7(e) and 4.7(f) will apply on and after the Second RC Satisfaction Date.
- (e) Subject to Section 4.7(f), the Shipper, at its cost and expense, may, in partial satisfaction of its obligations under this Section 4 to deliver to FortisBC Energy Security in an amount equal to the Required Security Amount, deliver to FortisBC Energy one (1) or more Surety Bonds.
- (f) If the Shipper delivers to FortisBC Energy Security one (1) or more Surety Bonds in accordance with Section 4.7(e) then:
  - (i) the amount of the Surety Bond or Surety Bonds (as the case may be) shall not exceed (either alone or in aggregate) thirty three percent (33%) of the

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then Required Security Amount (which, for certainty, will be the Required Security Amount prior to adjustment in accordance with Section 4.7(f)(ii)) but in no event may the amount of the Surety Bond or Surety Bonds (as the case may be) exceed (either alone or in aggregate) one hundred million dollars (\$100,000,000);

- (ii) notwithstanding any other provision of this Agreement to the contrary, the amount of the then Required Security Amount will be increased by an amount that is equal to fifty percent (50%) of the amount of the Surety Bond or Surety Bonds delivered in accordance with Section 4.7(e); and
- (iii) concurrently with the delivery of one (1) or more Surety Bonds in accordance with Section 4.7(e) the Shipper shall, at its cost and expense, either:
  - (A) increase the face value of any existing Letter of Credit; or
  - (B) deliver to FortisBC Energy one (1) or more Letters of Credit,

such that, in either case, the Letter of Credit or Letters of Credit and the Surety Bond or Surety Bonds delivered to FortisBC Energy together comprise Security in an amount equal to the Required Security Amount as determined in accordance with Section 4.7(f)(ii).

For illustrative purposes only, if as at the date the Shipper is entitled to deliver a Surety Bond pursuant to Section 4.7(e) the then Required Security Amount is three hundred million dollars (\$300,000,000) then the maximum permissible amount of the Surety Bond will be one hundred million dollars (\$100,000,000) and the Required Security Amount will be increased to three hundred and fifty million dollars (\$350,000,000).

#### 4.8 Re-Determination of Security and Required Security Amount.

- (a) Notwithstanding anything in Section 4.6 to the contrary, Section 4.8(b) will apply if:
  - (i) at any time during the Term, a Security Default occurs and the Shipper fails to comply with Section 4.9; or
  - (ii) prior to the fifteenth anniversary of the Commencement Date a FortisBC Energy Rating Downgrade occurs and is not remedied by the Shipper within five (5) Business Days after the date on which the FortisBC Energy Rating Downgrade occurs; or
  - (iii) prior to the Fourth RC Satisfaction Date, an assignment, sale or transfer of the whole or any part of the LNG Facility occurs without the concurrent assignment of this Transportation Agreement to the assignee or purchaser of the LNG Facility pursuant to Section 7.
- (b) Subject to Section 4.4(a)(i)(B) and this Section 4.8(b), FortisBC Energy may, at its sole discretion, alter the nature, type and form of Security required by FortisBC Energy or adjust the Required Security Amount taking into account any change in the then-current book value of the Incremental System Upgrades, the Remaining CIAC Amount and any other matter FortisBC Energy considers relevant (acting reasonably), including a FortisBC Energy Rating Downgrade and the

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Creditworthiness of the Shipper but if the event in Section 4.8(a)(ii) occurs, FortisBC Energy shall, to the extent it is available and is in the possession of FortisBC Energy, provide any evidence of such to the Shipper and such alteration of the nature, type and form of Security or the Required Security Amount shall be limited to the extent necessary to avoid the FortisBC Energy Rating Downgrade. If FortisBC Energy alters the nature, type and form of Security required by FortisBC Energy or adjusts the Required Security Amount, then FortisBC Energy will promptly deliver a written notice to the Shipper setting out the nature, type and form of the Security required by FortisBC Energy or the adjusted Required Security Amount, or both, as the case may be. At any time that FortisBC Energy determines that a reimbursement of the Shipper's CIAC is required in accordance with Section 3.1, FortisBC Energy will consider, in accordance with this Section 4.8(b), any corresponding alteration to the Required Security Amount that may be required. In exercising its discretion under this Section 4.8(b) to alter the nature, type or form of Security FortisBC Energy shall:

- (i) not alter nature, type or form of Security so as to be security of a nature, type or form not contemplated by Section 2.1(aaaa); and
  - (ii) not alter nature, type or form of Security provided by the Shipper under Section 4.2 or Section 4.7 (or both, as the case may be) to another form of Security contemplated by Section 2.1(aaaa) unless FortisBC Energy considers that circumstances have arisen or events have occurred which will or which are likely to adversely affect the availability, renewability, validity or enforceability of the Security provided by the Shipper under Section 4.2 or Section 4.7 (or both, as the case may be).
- (c) If at any relevant time during the Term the Shipper fails to continue to satisfy, following satisfaction thereof, the First Reduction Conditions, the Second Reduction Conditions, the Third Reduction Conditions or the Fourth Reduction Conditions, as the case may be, then the Shipper shall immediately notify FortisBC Energy of that failure identifying the condition or conditions that the Shipper has failed to satisfy together with a description in reasonable detail of the circumstances and events that gave rise to that failure or which constitute that failure.
- (d) Notwithstanding any other provision of this Transportation Agreement to the contrary, if after the First RC Satisfaction Date the Shipper fails to continue to satisfy the First Reduction Conditions (and for this purpose any reference in the First Reduction Conditions to "in the eighteen (18) months prior to the date on which the First RC Satisfaction Notice is given to Fortis BC Energy" or similar phrases shall be disregarded), then:
- (i) if such failure has not been remedied within the relevant cure period (if any) stated or referred to in the First Reduction Conditions or elsewhere in this Transportation Agreement, with effect from the date of the expiration of such cure period or where there is no relevant cure period, with effect from the date of such failure (the later of such dates, the "**FRC Failure Date**") and irrespective of whether or not the Shipper has given notice of such failure to FortisBC Energy pursuant to Section 4.8(c), the Required Security Amount shall immediately be adjusted to again be that amount of Security that the Shipper was required to deliver and maintain under this Transportation Agreement prior to the First RC Satisfaction Date; and

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- (ii) if as at the FRC Failure Date FortisBC Energy has complied with Section 4.6(d), then the Shipper shall promptly (and in any event within ten (10) Business Days after the FRC Failure Date), at its cost and expense, deliver to FortisBC Energy additional Security (whether by way of increasing the face value of any existing Security or delivering new instruments of Security), such that, in either case, the Shipper delivers Security to FortisBC Energy in an amount equal to the Required Security Amount prior to the First RC Satisfaction Date.
- (e) Notwithstanding any other provision of this Transportation Agreement to the contrary, if the Shipper complies with Section 4.8(d)(ii) and the Shipper again satisfies, and, for a period of eighteen (18) months after the FRC Failure Date, continues to satisfy, the First Reduction Conditions (and for this purpose any reference in the First Reduction Conditions to "in the eighteen (18) months prior to the date on which the First RC Satisfaction is given to Fortis BC Energy" or similar phrases shall be disregarded) then the Shipper shall again be entitled to reduce the Required Security Amount in accordance with Section 4.6(a) and Sections 4.6(b) to 4.6(d) (inclusive) shall again apply *mutatis mutandis*.
- (f) With effect from the Second RC Satisfaction Date, Sections 4.8(d) and 4.8(e) shall cease to be operative and of any force and effect.
- (g) Notwithstanding any other provision of this Transportation Agreement to the contrary, if after the Second RC Satisfaction Date the Shipper fails to continue to satisfy the Second Reduction Conditions (and for this purpose any reference in the Second Reduction Conditions to "in the eighteen (18) months prior to the date on which the Second RC Satisfaction Notice is given to Fortis BC Energy" or similar phrases shall be disregarded), then:
  - (i) if such failure has not been remedied within the relevant cure period (if any) stated or referred to in the Second Reduction Conditions or elsewhere in this Transportation Agreement, with effect from the date of the expiration of such cure period or where there is no relevant cure period, with effect from the date of such failure (the later of such dates, the "SRC Failure Date") and irrespective of whether or not the Shipper has given notice of such failure to FortisBC Energy pursuant to Section 4.8(c), the Required Security Amount shall immediately be adjusted to again be that amount of Security that the Shipper was required to deliver and maintain under this Transportation Agreement prior to the Second RC Satisfaction Date; and
  - (ii) if as at the SRC Failure Date FortisBC Energy has complied with Section 4.6(h), then the Shipper shall promptly (and in any event within ten (10) Business Days after the SRC Failure Date), at its cost and expense, deliver to FortisBC Energy additional Security (whether by way of increasing the face value of any existing Security or delivering new instruments of Security), such that, in either case, the Shipper delivers Security to FortisBC Energy in an amount equal to the Required Security Amount prior to the Second RC Satisfaction Date.
- (h) Notwithstanding any other provision of this Transportation Agreement to the contrary, if the Shipper complies with Section 4.8(g)(ii) and the Shipper again satisfies, and, for a period of eighteen (18) months after the SRC Failure Date, continues to satisfy, the Second Reduction Conditions (and for this purpose any

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reference in the Second Reduction Conditions to "in the eighteen (18) months prior to the date on which the Second RC Satisfaction Notice is given to Fortis BC Energy" or similar phrases shall be disregarded) then the Shipper shall again be entitled to reduce the Required Security Amount in accordance with Section 4.6(i) and Sections 4.6(f) to 4.6(h) (inclusive) shall again apply *mutatis mutandis*.

- (i) With effect from the Third RC Satisfaction Date, Sections 4.8(g) and 4.8(h) shall cease to be operative and of any force and effect.
- (j) Notwithstanding any other provision of this Transportation Agreement to the contrary, if after the Third RC Satisfaction Date the Shipper fails to continue to satisfy the Third Reduction Conditions (and for this purpose any reference in the Third Reduction Conditions to "in the eighteen (18) months prior to the date on which the Third RC Satisfaction Notice is given to Fortis BC Energy" or similar phrases shall be disregarded), then:
  - (i) if such failure has not been remedied within the relevant cure period (if any) stated or referred to in the Third Reduction Conditions or elsewhere in this Transportation Agreement, with effect from the date of the expiration of such cure period or where there is no relevant cure period, with effect from the date of such failure (the later of such dates, the "TRC Failure Date") and irrespective of whether or not the Shipper has given notice of such failure to FortisBC Energy pursuant to Section 4.8(c), the Required Security Amount shall immediately be adjusted to again be that amount of Security that the Shipper was required to deliver and maintain under this Transportation Agreement prior to the Third RC Satisfaction Date; and
  - (ii) if as at the TRC Failure Date FortisBC Energy has complied with Section 4.6(l), then the Shipper shall promptly (and in any event within ten (10) Business Days after the TRC Failure Date), at its cost and expense, deliver to FortisBC Energy additional Security (whether by way of increasing the face value of any existing Security or delivering new instruments of Security), such that, in either case, the Shipper delivers Security to FortisBC Energy in an amount equal to the Required Security Amount prior to the Third RC Satisfaction Date.
- (k) Notwithstanding any other provision of this Transportation Agreement to the contrary, if the Shipper complies with Section 4.8(j)(ii) and the Shipper again satisfies, and, for a period of eighteen (18) months after the TRC Failure Date, continues to satisfy, the Third Reduction Conditions (and for this purpose any reference in the Third Reduction Conditions to "in the eighteen (18) months prior to the date on which the Fourth RC Satisfaction Notice is given to Fortis BC Energy" or similar phrases shall be disregarded) then the Shipper shall again be entitled to reduce the Required Security Amount in accordance with Section 4.6(i) and Sections 4.6(j) to 4.6(l) (inclusive) shall again apply *mutatis mutandis*.
- (l) With effect from the Fourth RC Satisfaction Date, Sections 4.8(j) and 4.8(k) shall cease to be operative and of any force and effect.
- (m) Notwithstanding any other provision of this Transportation Agreement to the contrary, if after the Fourth RC Satisfaction Date the Shipper fails to continue to satisfy the Fourth Reduction Conditions (and for this purpose any reference in the Fourth Reduction Conditions to "in the eighteen (18) months prior to the date on

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which the Fourth RC Satisfaction Notice is given to Fortis BC Energy" or similar phrases shall be disregarded), then:

- (i) if such failure has not been remedied within the relevant cure period (if any stated or referred to in the Fourth Reduction Conditions or elsewhere in this Transportation Agreement, with effect from the date of the expiration of such cure period or where there is no relevant cure period, with effect from the date of such failure (the later of such dates, the "**Fourth RC Failure Date**") and irrespective of whether or not the Shipper has given notice of such failure to FortisBC Energy pursuant to Section 4.8(c), the Required Security Amount shall immediately be adjusted to again be that amount of Security that the Shipper was required to deliver and maintain under this Transportation Agreement prior to the Fourth RC Satisfaction Date; and
  - (ii) if as at the Fourth RC Failure Date FortisBC Energy has complied with Section 4.6(p), then the Shipper shall promptly (and in any event within ten (10) Business Days after the Fourth RC Failure Date), at its cost and expense, deliver to FortisBC Energy additional Security (whether by way of increasing the face value of any existing Security or delivering new instruments of Security), such that, in either case, the Shipper delivers Security to FortisBC Energy in an amount equal to the Required Security Amount prior to the Fourth RC Satisfaction Date.
- (n) Notwithstanding any other provision of this Transportation Agreement to the contrary, if the Shipper complies with Section 4.8(m)(ii) and the Shipper again satisfies, and, for a period of eighteen (18) months after the TRC Failure Date, continues to satisfy, the Fourth Reduction Conditions (and for this purpose any reference in the Fourth Reduction Conditions to "in the eighteen (18) months prior to the date on which the Fourth RC Satisfaction Notice is given to Fortis BC Energy" or similar phrases shall be disregarded) then the Shipper shall again be entitled to reduce the Required Security Amount in accordance with Section 4.6(m) and Sections 4.6(n) to 4.6(p) (inclusive) shall again apply *mutatis mutandis*.

**4.9 Replacement of Security.** Without limiting any other right or remedy of FortisBC Energy under this Transportation Agreement, Rate Schedule 50, at law or in equity, if a Security Default occurs then the Shipper shall, at its cost and expense, within fifteen (15) Business Days of the date on which the Security Default occurs, deliver additional Security to FortisBC Energy sufficient to supplement, replenish or replace (as the case may be) the existing Security such that the aggregate amount of the Security held by FortisBC Energy which conforms with the requirements of this Transportation Agreement and, as applicable, Rate Schedule 50, is not less than the then Required Security Amount.

**4.10 No Limitation.** Nothing in this Section 4 shall affect the right of FortisBC Energy to recover from the Shipper the whole of any debt, money or damages, or any balance that remains, after recourse to the Security. Nothing in this Section 4 shall affect the obligation of FortisBC Energy to return and release to the Shipper Security in excess of the Required Security Amount pursuant to Section 13.7 of Rate Schedule 50.

## **5. TERMINATION PAYMENT**

**5.1 Termination Payment.** Notwithstanding Section 22.3 of Rate Schedule 50 if FortisBC Energy terminates this Transportation Agreement in accordance with Section 22.1 (Default) or Section 22.2 (Bankruptcy or Insolvency) of Rate Schedule 50, then Shipper

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shall pay to FortisBC Energy a payment ("Termination Payment"), payable within ten (10) Business Days after the date such termination is effective, equal to any outstanding amounts due and payable by Shipper to FortisBC Energy under this Transportation Agreement and Rate Schedule 50 that remain unpaid as of the termination date plus the greater of:

- (a) the current net book value of the Incremental System Upgrades, less the Remaining CIAC Amount; or
- (b) the amount equal to the Net Present Value of the product of 75% x Contract Demand x Firm Demand Toll x 365 days per year x the number of months from the termination date until the Expiry Date divided by 12.

## 6. CONTRACT DEMAND, SEASONAL FIRM CONTRACT DEMAND AND DEMAND TOLL CREDITS

6.1 **Contract Demand.** For the purposes of this Transportation Agreement "**Contract Demand**" means the quantity of Gas in respect of which FortisBC Energy is obligated to provide Firm Transportation Service, provided that the volume weighted average Heat Content of the Gas received at the Receipt Point is not less than 38.9 MJ/m<sup>3</sup>. If FortisBC Energy reasonably determines in respect of any Day or future period that the volume-weighted average Heat Content for all Gas received at the Receipt Point during that Day or future period is or is reasonably likely to be less than 38.9 MJ/m<sup>3</sup>, then FortisBC Energy may by written notice to the Shipper adjust the Contract Demand for that Day or future period to an amount measured in GJ that FortisBC Energy reasonably estimates at the time of adjustment will allow FortisBC Energy to deliver to the Shipper the volumetric equivalent in 10<sup>3</sup> m<sup>3</sup> per Day of the Contract Demand. Without limiting the foregoing, at the expiration of every six (6) months during the first thirty six (36) months of the Term, FortisBC Energy will review the operation of the Incremental System Upgrades to determine whether FortisBC Energy can provide to the Shipper an increase in the Base Contract Demand. If it is determined by FortisBC Energy (in its sole discretion, acting reasonably) that the operations of the Incremental System Upgrades can accommodate an increase in the Base Contract Demand, then the Parties shall amend this Transportation Agreement to increase the Base Contract Demand by such volume.

6.2 **Seasonal Firm Contract Demand.** FortisBC Energy agrees to transport and deliver in respect of the Firm Transportation Service a daily incremental quantity of Gas in excess of the Base Contract Demand determined in accordance with Section 6.4, ("**Seasonal Firm Contract Demand**"), it being acknowledged and agreed by the Shipper that when FortisBC exercises its discretion in accordance with Section 6.4 to establish or adjust the Seasonal Firm Contract Demand under this Section 6, the quantity represented by the Seasonal Firm Contract Demand may equal zero in certain periods.

6.3 **Delivery Obligation.** For each Day of the Term, the Contract Demand, for all purposes under Rate Schedule 50 and this Transportation Agreement, shall be deemed to be equal to the Base Contract Demand plus the Seasonal Firm Contract Demand for the applicable month, but if no Seasonal Firm Contract Demand is specified for the applicable month in Schedule A, then the Seasonal Firm Contract Demand for that Day is deemed to be equal to zero. For greater certainty, on each Day of the Term, the quantity of Gas which FortisBC Energy is obligated to transport and deliver pursuant to Section 5.1 of Rate Schedule 50 will be the lesser of:

- (a) the Base Contract Demand + the Seasonal Firm Contract Demand; and

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(b) the Authorized Quantity.

**6.4 Determination of Seasonal Firm Contract Demand.** FortisBC Energy will provide an estimate of the Seasonal Firm Contract Demand two (2) years in advance of a calendar year for each year of the Term and will deliver a written notice to the Shipper no later than one (1) year in advance of a calendar year, setting out the daily incremental quantity of Gas which FortisBC Energy, acting reasonably, determines it is able to transport and deliver in respect of Firm Transportation Service in excess of the Base Contract Demand (if any) for each month of that year. The amount for each year may be more or less than the amounts indicated in a prior Seasonal Firm Delivery Notice, as FortisBC Energy will determine (acting reasonably). For clarity, the notice in writing to be given under this Section 6.4 shall be in the form of Schedule A attached to this Transportation Agreement as of the Effective Date, and, upon delivery of such notice to the Shipper, this Transportation Agreement shall be deemed to be amended automatically by replacing the information contained in the current Schedule A with information contained in that notice, without requiring any further action by either Party.

**6.5 Acknowledgment.** The Shipper acknowledges and agrees that FortisBC Energy's agreement to deliver a daily incremental quantity of Gas as part of its Firm Transportation Service under Rate Schedule 50 and this Transportation Agreement, in the amount of the Seasonal Firm Contract Demand, together with any subsequent change in the amount of that Seasonal Firm Contract Demand made in accordance with the terms of this Transportation Agreement, may result in either an increase or a decrease to the Shipper's Firm Demand Toll, and certain other amounts, determined or calculated in accordance with Rate Schedule 50 or this Transportation Agreement (including, for certainty, any Reimbursement Amount calculated in accordance with Section 3.1).

**6.6 Demand Toll Credits.** Subject to Section 6.10, if on any Day the Delivered Quantity is less than the lesser of the Contract Demand and the Authorized Quantity and the shortfall results from:

- (a) any Maintenance on the System that is undertaken by FortisBC Energy on less than three (3) Days' notice to the Shipper; or
- (b) an event of Force Majeure which prevents FortisBC Energy from delivering to the Shipper at the Delivery Point all or any portion of the gas delivered by the Shipper to the Receipt Point on that Day,

then the Shipper will be entitled to a Demand Toll Credit for that Day which FortisBC Energy will apply to a following monthly bill rendered pursuant to Section 12 of Rate Schedule 50.

**6.7 Amount of Demand Toll Credit.** The Demand Toll Credit applied by FortisBC Energy in respect of any Day pursuant to Section 6.6 will be in an amount equal to the product of the Firm Demand Toll multiplied by the difference between the Delivered Quantity and the lesser of the Contract Demand and the Authorized Quantity.

**6.8 Interruptible Demand Toll Credits.** Subject to Section 6.10, if on any Day the Delivered Quantity is less than the lesser of the Contract Demand and the Authorized Quantity and the shortfall results from the Gross Negligence or Wilful Misconduct of FortisBC Energy then the Shipper will be entitled to a toll credit ("Toll Credit (IT)") for that Day which FortisBC Energy will apply to the Interruptible Demand Toll (if any) invoiced in a following monthly bill and in each next following monthly bill, rendered pursuant to Section 12 of

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Rate Schedule 50 until the Toll Credit (IT) is reduced to zero. Notwithstanding the foregoing, any Toll Credit (IT) which is not applied in the manner described above within thirty (30) months after the date on the Shipper first became entitled to the Toll Credit (IT) pursuant to this Section 6.8 shall automatically cease and be extinguished. For certainty:

- (a) the thirty (30) month period referred to above will apply separately to each Toll Credit (IT) to which the Shipper becomes entitled pursuant to this Section 6.8;
- (b) the thirty (30) month period for each Toll Credit (IT) will commence on the date on which the Shipper first became entitled to the Toll Credit (IT) pursuant to this Section 6.8;
- (c) subject to Section 6.8(d), any Toll Credit (IT) which has not been applied as at the expiration of the Term (including, for certainty, the Term as extended or renewed pursuant to Section 7.1) shall automatically cease and be extinguished; and
- (d) if the Term is extended or renewed pursuant to Section 7.1 then any Toll Credit (IT) which has not been applied or extinguished in accordance with this Section 6.8 as at the date of such extension or renewal, shall continue in full force and effect until subsequently applied by FortisBC Energy or extinguished in accordance with this Section 6.8.

**6.9 Amount of Toll Credit (IT).** The Toll Credit (IT) to which the Shipper is entitled in respect of any Day pursuant to Section 6.8 will be in an amount equal to the product of the Firm Demand Toll multiplied by the difference between the Delivered Quantity and the lesser of the Contract Demand and the Authorized Quantity.

**6.10 Limitations on Toll Credits.** For greater certainty, the Shipper will not be entitled to a Toll Credit if the shortfall in the Delivered Quantity results directly or indirectly from:

- (a) any act or omission of the Shipper; or
- (b) the occurrence of one or more of the following, for any reason, including Force Majeure:
  - (i) the Shipper fails to deliver any portion of the Receipt Quantity to FortisBC Energy at the Receipt Point;
  - (ii) all or any portion of the gas delivered by the Shipper to FortisBC Energy at the Receipt Point fails to conform to the quality specifications set out in Section 14.1 of Rate Schedule 50; or
  - (iii) the Shipper fails to take delivery of Gas at any Delivery Point.

## 7. RENEWAL AND ASSIGNMENT

**7.1 Renewal of TSA.** If the Shipper delivers to FortisBC Energy a written notice, two (2) years prior to the Expiry Date, indicating its desire to extend or renew this Transportation Agreement, then as soon as reasonably practicable FortisBC Energy and the Shipper shall use commercially reasonable efforts to agree upon terms on which this Transportation Agreement will be extended or renewed for an additional term not exceeding twenty (20) years. The Firm Demand Toll and Interruptible Demand Toll applicable during such additional term will be based on, among other factors, the then-current book value of the Incremental System Upgrades. Any extension or renewal of the

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Term will result in a revised Expiry Date that will supersede the Expiry Date referred to in Section 1.

## 7.2 Assignment.

- (a) For the purposes of this Section 7.2 "assign" and inflexions of "assign" means to sell, assign, transfer, licence, or otherwise dispose or part with possession of either directly or indirectly.
- (b) Subject to the Shipper's compliance with Sections 7.2(d) and 7.2(e), the Shipper may assign all (but not less than all) of its rights and obligations under this Transportation Agreement to any third party ("Assignee") with the prior written approval of FortisBC Energy, which approval will not be unreasonably withheld.
- (c) For the purposes of Section 7.2(b), FortisBC Energy will not be considered to be acting unreasonably in withholding its approval if, among other things, FortisBC Energy requires or must be satisfied (as the case may be) that:
  - (i) the Assignee first execute a written agreement (to be prepared by FortisBC Energy's counsel at the cost of the Assignee on terms satisfactory to the Parties) by which the Assignee agrees to assume the obligations of the Shipper under this Transportation Agreement;
  - (ii) the Shipper pay all reasonable expenses (including legal costs on a full indemnity basis) incurred by FortisBC Energy in investigating the proposed Assignee and the proposed assignment;
  - (iii) the Assignee to demonstrate prior to the Assignment Date to the satisfaction of FortisBC Energy, acting reasonably, that it is able to perform the obligations of the Shipper under this Transportation Agreement;
  - (iv) all outstanding amounts (on any account whatsoever) due and owing by the Shipper to FortisBC Energy under this Transportation Agreement and Rate Schedule 50 up to and including the Assignment Date be paid in full by the Shipper;
  - (v) if prior to or upon completion of the assignment the Assignee will not provide replacement Security and the Security previously provided by the Shipper will continue to constitute the required Security for the purposes of this Transportation Agreement, FortisBC Energy being satisfied that the proposed assignment will not have an adverse effect on the validity or enforceability of the Security previously delivered by or on behalf of the Shipper to FortisBC Energy under this Transportation Agreement;
  - (vi) if Section 7.2(c)(iv) does not apply, that on or before the Assignment Date the Assignee shall deliver to FortisBC Energy Security in the amount and of the nature, type and form required to be delivered and maintained by the Shipper under this Transportation Agreement as at the Assignment Date (which will be determined solely by FortisBC Energy);
  - (vii) as at the Assignment Date the Assignee and its Affiliates are not subject to Sanctions or are Sanctioned Persons or Sanctioned Entities and are not Controlled by a Sanctioned Person or a Sanctioned Entity and at all times

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in the twelve (12) month period prior to the Assignment Date the Assignee and its Affiliates were not subject to Sanctions or were Sanctioned Persons or Sanctioned Entities and were not Controlled by a Sanctioned Person or a Sanctioned Entity; and

- (viii) if the CSA is extant as at the Assignment Date, concurrently with the assignment of this Transportation Agreement, the Woodfibre Parties (as defined in the CSA) assign their right, title and interest in and to the CSA to the Assignee in accordance with the CSA to the same extent as the rights and interests of the Shipper under this Transportation Agreement being assigned by the Shipper to the Assignee in connection with the assignment.
- (d) Any request by the Shipper for FortisBC Energy's consent under Section 7.2(b) shall:
  - (i) be made by the Shipper to FortisBC Energy in writing;
  - (ii) be made not less than thirty (30) Days prior to the commencement of the proposed third party assignment; and
  - (iii) specify in reasonable detail the nature of the assignment to the Assignee including the period or date in or on which the proposed assignment to the Assignee will commence and complete ("**Assignment Date**").
- (e) At the request of FortisBC Energy, the Shipper shall promptly provide to FortisBC Energy further information in connection with the proposed assignment of this Transportation Agreement to the Assignee in such form (including, for certainty, documents) and in such detail as FortisBC Energy, acting reasonably, may require.

**7.3 Assignment by way of Security.** Notwithstanding Section 7.2, nothing in this Transportation Agreement or in Rate Schedule 50 shall prevent either Party from pledging, charging or mortgaging its rights under this Transportation Agreement or Rate Schedule 50 as security for its indebtedness or obligations without the consent of the other Party. Any Person who has acquired a security interest under this Transportation Agreement as security for the indebtedness or obligations of either Party may, without the consent of the other Party, assign the Transportation Agreement to another Person in connection with the enforcement of the security interest.

**7.4 Assignment to Affiliate.**

- (a) The Shipper may, without complying with the provisions of Section 7.2, assign all of its rights and obligations under this Transportation Agreement to an Affiliate of the Shipper as long as:
  - (i) notice of such assignment is provided to FortisBC Energy no later than thirty (30) Days prior to the date of such proposed assignment;
  - (ii) the Affiliate of the Shipper first executes and delivers to FortisBC Energy an agreement on terms satisfactory to FortisBC Energy and the Affiliate, by which the Affiliate agrees to be bound by and to perform and observe all of the terms and conditions of this Transportation Agreement binding upon

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and to be performed and observed by the Shipper and specifying an address for service, including the address and email address for the Affiliate; and

- (iii) the Affiliate of the Shipper agrees that before ceasing to be an Affiliate of the Shipper it shall, at its option, either:
  - (A) comply with the change of Control provisions applicable to the Shipper as set out in Section 7.5; or
  - (B) promptly assign all of the rights and obligations under this Transportation Agreement previously assigned to it by the Shipper back to the Shipper or to another Person who is an Affiliate of the Shipper as long as prior to such assignment such Person and the Shipper first comply with Section 7.4(a)(ii).
- (b) The Shipper acknowledges and agrees that no assignment to its Affiliate in accordance with Section 7.4(a) in any way releases or discharges any Security provided by or on behalf of the Shipper or relieves the Shipper from the performance of any of its obligations under this Transportation Agreement and Rate Schedule 50 and:
  - (i) the Shipper will then remain jointly and severally liable with its Affiliate for all obligations and liabilities of the Shipper under this Transportation Agreement and Rate Schedule 50; and
  - (ii) FortisBC Energy may at its sole option have recourse against either or both the Shipper and its Affiliate for any and all obligations or liabilities of the Shipper under this Transportation Agreement and Rate Schedule 50.

**7.5 Exception.** Nothing in this Section 7 or elsewhere in this Transportation Agreement applies to or restricts in any manner a change of Control of the Shipper (whether through merger, amalgamation, business combination, reorganization, plan of arrangement, public listing, sale of shares or other equity interests, sale of all or substantially all of the assets or otherwise) as long as:

- (a) notice of such intended change of Control is provided to FortisBC Energy no later than thirty (30) Days prior to the date of completion of the transaction by which such change of Control will be effected;
- (b) in the case of a merger, amalgamation, business combination, reorganization, plan of arrangement or other merger transaction, the merger, amalgamation, business combination, reorganization, plan of arrangement or other merger transaction has the effect in law of the amalgamated, resulting or surviving corporation possessing substantially all the property, rights and interests and being subject to substantially all the debts, liabilities and obligations of each amalgamating or predecessor corporation;
- (c) in the case of a merger, amalgamation, business combination, reorganization, plan of arrangement or other merger transaction, the amalgamated, resulting or surviving corporation is not subject to Sanctions or is a Sanctioned Person or a Sanctioned Entity and is not Controlled by a Sanctioned Person or a Sanctioned Entity; and

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- (d) without limiting Section 7.5(b), such change of Control shall not relieve the Shipper of any of its liabilities or obligations under this Transportation Agreement or Rate Schedule 50 or release or discharge or adversely affect the validity or enforceability of any Security provided by or on behalf of the Shipper.

## 8. GENERAL

**8.1 Independent Legal Advice.** The Shipper represents and warrants to FortisBC Energy that it has received independent legal advice regarding the terms of this Transportation Agreement and Rate Schedule 50.

**8.2 Direct Agreement.** FortisBC Energy agrees that it will, if requested by the Shipper, enter into a direct agreement with the Shipper's debt financiers ("**Financing Entities**"), in a form acceptable to FortisBC Energy, acting reasonably, acknowledging the Shipper's assignment of its rights under this Transportation Agreement by way of security and providing for customary step-in and cure rights upon any default of the Shipper under this Transportation Agreement. For certainty, FortisBC Energy will be taken to have acted reasonably if it does not accept a form of direct agreement proposed by the Financing Entities if FortisBC Energy considers that the proposed form of direct agreement would increase or enlarge the liability of FortisBC Energy under this Transportation Agreement or would prejudice or otherwise affect the rights, remedies and powers of FortisBC Energy under this Transportation Agreement.

**8.3 Condition Precedent.** All obligations of the Parties to this Transportation Agreement are subject to the approval by the BCUC (on terms satisfactory to FortisBC Energy and the Shipper) of the rates, terms and conditions set out in this Transportation Agreement as a supplemental tariff to Rate Schedule 50, and will come into force and effect when approved by the BCUC.

### 8.4 Acknowledgement.

- (a) Subject to Section 8.4(b) and notwithstanding Section 18.2(b) and Section 18.2(c) of Rate Schedule 50, FortisBC Energy acknowledges and consents to the fact that:
- (i) the Shipper may not be the sole legal and beneficial owner and user of the LNG Facility to which Gas is to be delivered under this Rate Schedule 50 and the Transportation Agreement;
  - (ii) the Shipper may enter into agreements with Third Parties with respect to the sale of Gas or LNG from the Shipper to such Third Parties in amounts less than the Contract Demand, and for periods less than the Service Period; and
  - (iii) the Shipper may not be responsible for acquiring under contract sufficient Gas supplies or reserves, nor sufficient gathering, processing and transportation capacity required to deliver to the Receipt Point the quantities of Gas to be transported and delivered by FortisBC Energy pursuant to this Transportation Agreement, nor for obtaining all governmental authorizations and approvals in connection therewith but if either FortisBC Energy or the Shipper is or at any time during the Term becomes responsible for acquiring or obtaining any of the foregoing items and things, then as between FortisBC Energy and the Shipper, the Shipper

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shall be solely responsible for acquiring or obtaining any such items and things.

(b) The Shipper acknowledges and agrees that except to the extent specified in Section 8.4(a) in respect of Section 18.2(b) and Section 18.2(c) of Rate Schedule 50, nothing in Section 8.4(a) lessens or otherwise affects the obligations or liabilities of the Shipper under this Transportation Agreement, Rate Schedule 50, or at law or in equity.

**8.5 Shipper More than one Person.** Each Woodfibre Party is, to the extent permitted by applicable law, jointly and severally liable for the obligations and liabilities of the Shipper set out in, created by or arising under or in connection with this Transportation Agreement and Rate Schedule 50.

**8.6 Counterparts.** This Transportation Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which taken together shall be deemed to constitute one and the same instrument. Counterparts may be executed in original, faxed or e-mail form and the Parties adopt any signatures received by fax or e-mail as original signatures of the Parties.

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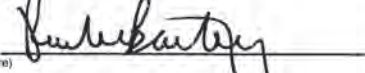
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IN WITNESS WHEREOF the Parties have executed this Transportation Agreement.

FORTISBC ENERGY INC.

PACIFIC ENERGY CORP.

BY:   
(Signature)

BY:   
(Signature)

President + CEO  
(Title)

DIRECTOR  
(Title)

ROGER DALL'ANTONA  
(Name - Please Print)

RON W. BAILEY  
(Name - Please Print)

DATE: SEP 13, 2021

DATE: SEPT 13, 2021

WOODFIBRE LNG LIMITED.

BY:   
(Signature)

DIRECTOR  
(Title)

RON W. BAILEY  
(Name - Please Print)

DATE: SEPT 13, 2021

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**Schedule A  
Seasonal Firm Contract Demand**

Month	Days per Month	Firm Contract Demand for Month (Gigajoules per day)	Annualized Firm Contract Demand(1) (Gigajoules per day)
April	30	0	0
May	31	5,000	425
June	30	10,000	822
July	31	10,000	849
August	31	10,000	849
September	30	5,000	411
October	31	0	0
Seasonal Firm Contract Demand for Toll Calculations			3,356

Notes: (1) Annualized Firm Contract Demand = Firm Contract Demand x Days in Month/365

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**Schedule B  
Satisfaction Certificate**

**FortisBC Energy Inc.**  
16705 Fraser Highway  
Surrey, British Columbia  
Canada V3S 2X7

Dear Sirs

**SATISFACTION CERTIFICATE**

Reference is made to the Transportation Agreement dated September 13, 2021 ("**Agreement**") between FortisBC Energy Inc. ("**FortisBC Energy**") and Pacific Energy Corp. ("**PEC**") and Woodfibre LNG Limited ("**WLNG**") (collectively PEC and WLNG, the "**Shipper**").

Words and expressions defined in the Agreement, but not defined in this Satisfaction Certificate, will have the same meaning when used in this Satisfaction Certificate.

I, the undersigned, hereby certify that I am *<insert title of senior officer>* of the Shipper. I further certify for and on behalf of the Shipper and not in my personal capacity and without personal liability, intending that the same may be relied upon by FortisBC Energy without further enquiry, that:

1. The *<First Reduction Conditions/Second Reduction Conditions/Third Reduction Conditions/Fourth Reduction Conditions>* were satisfied by the Shipper in accordance with the terms of the Agreement as of [●] [●], 20[●];

2. The documents enclosed under cover of this Satisfaction Certificate record or are reasonable evidence of the satisfaction of the *<First Reduction Conditions/Second Reduction Conditions/Third Reduction Conditions/Fourth Reduction Conditions>*.

This certificate is issued subject to the terms and conditions contained in the Agreement.

DATED as of this \_\_\_\_\_ day of [●] 20[●].

[●]*<insert title of entity>*

\_\_\_\_\_  
Name:

Title: *<insert title of senior officer>*

\_\_\_\_\_  
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**Schedule C  
Form of Letter of Credit**

To: FortisBC Energy Inc.  
16705 Fraser Highway  
Surrey, British Columbia, Canada  
V3S 2X7

DATE: \_\_\_\_\_

(**"Beneficiary"**)

**TRANSPORTATION AGREEMENT DATED SEPTEMBER 13, 2021 BETWEEN AND PACIFIC ENERGY CORP. AND WOODFIBRE LNG LIMITED ("APPLICANT") AND FORTISBC ENERGY INC. ("AGREEMENT")**

Irrevocable Standby Letter of Credit No: \_\_\_\_\_

At the request of the Applicant, we hereby issue in your favour our irrevocable standby letter of credit No. \_\_\_\_\_ (**"Letter of Credit"**) for a sum not exceeding in the aggregate CDN \$[•] ( \_\_\_\_\_ Canadian Dollars) effective immediately.

Subject to compliance with the drawing conditions set out in this Letter of Credit, this Bank hereby agrees to immediately pay to you under this Letter of Credit any amount or amounts claimed, not exceeding in the aggregate the sum of CDN \$ \_\_\_\_\_, upon your written demand(s) for payment being made upon us at our counter during normal business hours, upon [•] (Vancouver office), [•], Suite [•], Vancouver, British Columbia, [•] [•], Canada referencing this Letter of Credit No. \_\_\_\_\_ dated \_\_\_\_\_.

Partial drawings are permitted.

This Letter of Credit is issued subject to the Uniform Customs and Practice for Documentary Credits, 1993 revision, ICC publication no. 500 and the laws of the Province of British Columbia. In case of conflict between the rules of the ICC publication no. 500 and the laws of the Province of British Columbia, the laws of the Province of British Columbia will prevail.

Drawings up to the full amount of this Letter of Credit may be made where the drawing is accompanied by a certificate executed by an officer or director of the Beneficiary stating that:

- (a) the person signing the certificate is an officer or director of the Beneficiary; and
- (b) the Beneficiary is entitled to call down upon this Letter of Credit.

Any drawings made under this Letter of Credit must be accompanied by the original of this Letter of Credit, together with an original certificate complying with the conditions set out above.

We will honour your written demand(s) for payment on presentation without enquiring whether you have a legitimate claim between yourself and the Applicant.

All banking charges are for the account of the Applicant.

This Letter of Credit will expire at the counters of our Vancouver office at the close of business on \_\_\_\_\_ . It is a condition of this Letter of Credit that if \_\_\_\_\_

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will be automatically extended for an additional period(s) of one year from the present, or any future, expiry date, unless not less than one hundred twenty (120) days prior to such date we notify the Beneficiary in writing by registered mail or by hand-delivered courier that we elect not to extend this Letter of Credit for such additional period(s).

\_\_\_\_\_  
Authorized Signatory

\_\_\_\_\_  
Authorized Signatory

\_\_\_\_\_  
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**FORTISBC ENERGY INC.**

**TRANSPORTATION AGREEMENT**

**TRANSPORTATION AGREEMENT FOR  
RATE SCHEDULE 50**

This Agreement is dated as of May 1, 2022 between FortisBC Energy Inc. ("**FortisBC Energy**") and Pacific Energy Corp. ("**PEC**") and Woodfibre LNG Limited ("**WLNG**") (collectively PEC and WLNG, the "**Shipper**").

**WHEREAS:**

- A. FortisBC Energy owns and operates the System;
- B. The Shipper and FortisBC Energy have entered into a Transportation Agreement dated September 13, 2021 with, subject to certain adjustment, a Contract Demand of 260,000 GJ per day ("**Primary Transportation Agreement**");
- C. BCHydro and FortisBC Energy were parties to a transportation agreement dated September 19, 2007 ("**BCHydro Transportation Agreement**") pursuant to which FortisBC Energy was, among other things, obliged to provide a firm transportation service in respect of 40,000 GJ per day;
- D. Pursuant to its terms the BC Hydro Transportation Agreement terminated as of April 12, 2022, and as a consequence of the termination of the BCHydro Transportation Agreement the Shipper desires that FortisBC Energy, among other things, in addition to the firm transportation service to be provided under the Primary Transportation Agreement, provide the Shipper with a firm transportation service in respect of 40,000 GJ per day; and
- E. FortisBC Energy will arrange for the transportation of Gas on a firm basis through the System from the specified Receipt Point(s) to the specified Delivery Point(s) in accordance with Rate Schedule 50 as set out below and the terms set out in this Transportation Agreement.

**NOW THEREFORE THIS AGREEMENT WITNESSES THAT** in consideration of the terms, conditions and limitations contained herein, the Parties agree as follows:

**1. SPECIFIC INFORMATION**

The Parties agree to the following terms and that the following information shall be applicable to each reference in either this Transportation Agreement or Rate Schedule 50.

Contract Demand	Has the meaning given in Section 2.1(h)
Commencement Date:	Has the meaning given in Section 2.1(e)
Expiry Date:	Has the meaning given in Section 2.1(n)

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Form of Security: As determined from time to time in accordance with this Transportation Agreement

Receipt Point(s): The point at 835.9 km-post 917.6 where the Transporter's pipeline system in British Columbia interconnects with the System

Delivery Point(s): The outlet flange of the Custody Transfer & Metering Station at the LNG Facility

Shipper's service address: Woodfibre LNG Limited  
Pacific Energy Corp.  
1185 W Georgia St,  
Ninth Floor  
Vancouver, BC, V6E 4E6

Account Number: As notified by FortisBC Energy to the Shipper on or before the Commencement Date

Address of Shipper for receiving notices: Woodfibre LNG Limited  
Pacific Energy Corp.  
1185 W Georgia St,  
Ninth Floor  
Vancouver, BC, V6E 4E6

Attention: Vice President Commercial

Telephone: 604 620 7883

Fax: 604-620-8860

Email: [commercial@WLNG.ca](mailto:commercial@WLNG.ca)

The information set out above is hereby approved by the Parties and each reference in either this Transportation Agreement or Rate Schedule 50 to any such information is to the information set out above.

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## 2. RATE SCHEDULE 50

2.1 **Defined Terms.** Capitalized terms not defined below or otherwise defined in this Transportation Agreement will have the meanings set out in the FortisBC Energy Inc. Rate Schedule 50 Large Volume Industrial Transportation effective January 1, 2015, as approved from time to time by the BCUC ("**Rate Schedule 50**"):

- (a) "**Affiliate**" means any Person which directly or indirectly Controls, is Controlled by, or is under common Control with a Person;
- (b) "**Assignee**" has the meaning given in the Primary Transportation Agreement;
- (c) "**BC Hydro Transportation Agreement**" has the meaning given Recital C;
- (d) "**Capacity Termination Payment**" has the meaning given in Section 3.3(a)(ii);
- (e) "**Commencement Date**" has the meaning given in the Primary Transportation Agreement;
- (f) "**Completion Date**" has the meaning given in the Primary Transportation Agreement;
- (g) "**Construction Security Agreement**" or "**CSA**" has the meaning given in the Primary Transportation Agreement;
- (h) "**Contract Demand**" has the meaning given in Section 7.1;
- (i) "**Control**" and inflexions of "**Control**" means, in relation to any Person, possession, directly or indirectly, of the power to direct or cause direction of management and policies of that Person through ownership of voting securities, contract, voting trust or otherwise;
- (j) "**CSA Termination Date**" means the date on which, prior to the Commencement Date, the CSA is terminated for any reason other than in the circumstances set out in Section 13.5(1) of the CSA;
- (k) "**Custody Transfer & Metering Station**" means FortisBC Energy's metering facility, located on or adjacent to the site of the LNG Facility, immediately upstream of the Delivery Point;
- (l) "**Demand Toll Credit**" has the meaning given in, and will be calculated in accordance with, Section 7.5;
- (m) "**Encumbrance**" means any mortgage, charge, pledge, hypothecation, security interest, assignment, lien (statutory or otherwise), charge, trust or other encumbrance of any nature whether registerable or not or any agreement to give or create any of the foregoing;
- (n) "**Expiry Date**" means, subject to any earlier termination in accordance with Rate Schedule 50, the 40<sup>th</sup> anniversary of the Commencement Date;
- (o) "**Financing Entities**" has the meaning given in Section 10.2;

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- (p) **"Firm Demand Toll"** has the meaning given in Section 4.1;
- (q) **"Gross Negligence"** means such wanton and reckless conduct (which was not an error of judgment, mistake or other act or omission (negligent or not)) as constitutes an utter disregard for the harmful, foreseeable and avoidable consequences which result from that conduct but Gross Negligence does not include any conduct insofar as it was done or omitted in accordance with the express consent or approval of all Parties;
- (r) **"Heat Content"** means the quantity of energy per unit volume of Gas measured under standardized conditions and expressed in megajoules per cubic metre (MJ/m<sup>3</sup>);
- (s) **"Letter of Credit"** means an irrevocable, unconditional and self-renewing standby letter of credit in favour of FortisBC Energy:
  - (i) which is in the form and on the terms and conditions specified in Schedule A or any other form agreed and approved in writing by FortisBC Energy (in its sole discretion); and
  - (ii) which is issued by a bank or financial institution in Canada approved by FortisBC Energy (in its sole discretion) which meets the Minimum Credit Rating (and for the purposes of this Section 2.1(s)(ii) each of the Toronto-Dominion Bank, Canadian Imperial Bank of Commerce, Bank of Montreal, Bank of Nova Scotia or Royal Bank of Canada are approved by FortisBC Energy as long as such institution meets the Minimum Credit Rating); and
  - (iii) which is capable of being drawn down on at the issuing bank or financial institution's counters in the City of Vancouver, British Columbia or such other city or municipality within the Province of British Columbia as may be acceptable to FortisBC Energy (in its sole discretion),

and for certainty, a reference to a Letter of Credit includes and means the Letter of Credit as modified, replaced or renewed or supplemented by any additional letter of credit at any time during the Term;

- (t) **"LNG"** means liquefied natural gas;
- (u) **"LNG Facility"** means the proposed natural gas liquefaction and export facility, including all facilities comprising a part of or which are adjacent to such liquefaction and export facility which are used for the storage, lifting and loading of LNG produced by such liquefaction and export facility, to be located south of Squamish in Howe Sound, British Columbia;
- (v) **"Minimum Credit Rating"** means on the relevant date of determination:
  - (i) in the case of a Letter of Credit, the following minimum measures of creditworthiness assigned to a bank or financial institution in Canada issuing a Letter of Credit which are to be assigned by not less than two of the following independent credit rating agencies:
    - (A) DBRS (A-high);

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- (B) Standard and Poor's Ratings Services (A+); and
  - (C) Moody's Investors Services (A1);
- (ii) in the case of a Surety Bond, the following minimum measures of creditworthiness assigned to a financial institution or insurance company in Canada licensed to conduct the business of an insurer in the Province of British Columbia issuing a Surety Bond which are to be assigned by not less than two of the following independent credit rating agencies:
- (A) DBRS (AA);
  - (B) Standard and Poor's Ratings Services (AA); and
  - (C) Moody's Investors Services (Aa2);
- (w) "**Primary Transportation Agreement**" has the meaning given in Recital B;
- (x) "**Recallable Curtailment Notice**" has the meaning given in Section 7.2(a);
- (y) "**Required Security Amount**" means, at any determination or adjustment date, the amount of the Security required to be delivered and maintained by the Shipper under this Transportation Agreement and Rate Schedule 50, as determined or adjusted by FortisBC Energy in accordance with Section 5;
- (z) "**Reservation Period**" means the period that commences on the Reservation Security Commencement Date and expires on the earlier of:
- (i) the Commencement Date; and
  - (ii) the CSA Termination Date;
- (aa) "**Reservation Security**" has the meaning given in Section 3.1(a);
- (bb) "**Reservation Security Amount**" means, on the Reservation Security Commencement Date or on each subsequent anniversary of the Reservation Security Commencement Date during the Reservation Period (as the case may be) the amount of the Reservation Security required to be delivered and maintained by the Shipper under this Transportation Agreement as determined in accordance with Section 3.2;
- (cc) "**Reservation Security Commencement Date**" means that date which is the later of:
- (i) the date on which this Transportation Agreement and its subject matter is approved by the BCUC; and
  - (ii) June 1, 2022;
- (dd) "**Security**" means a Letter of Credit or a Surety Bond or other cash form of security;
- (ee) "**Security Default**" means the occurrence of any of the following events:
- (i) the issuer of the Security fails to maintain the Minimum Credit Rating;

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- (ii) the issuer of the Security fails to comply with or perform its obligations under such Security;
  - (iii) the issuer of the Security disaffirms, disclaims, repudiates or rejects, in whole or in part, or challenges the validity of, such Security;
  - (iv) the Security expires or terminates, or fails or ceases to be in full force and effect at any time during the Term, in any such case without replacement; or
  - (v) the issuer of the Security becomes bankrupt or insolvent or commits or suffers an act of bankruptcy or insolvency or a receiver is appointed pursuant to a statute or under a debt instrument over all or substantially all the assets of the issuer of the Security or the issuer of the Security seeks protection from the demands of its creditors pursuant to any legislation enacted for that purpose;
- (ff) **"Service Period"** means, in respect of the initial Service Period, the period commencing at 0700 DST on the Commencement Date and ending immediately prior to 0700 DST on the next occurring January 1<sup>st</sup> and in respect of each successive Service Period thereafter, means the period commencing at 0700 DST on each succeeding January 1<sup>st</sup> and ending immediately prior to 0700 DST on the earlier of:
- (i) the next occurring January 1<sup>st</sup> in the Term; or
  - (ii) the Expiry Date;
- (gg) **"Surety Bond"** means an irrevocable and self-renewing surety bond, security bond or similar security instrument in favour of FortisBC Energy:
- (i) which is in the form and on the terms and conditions agreed and approved in writing by FortisBC Energy (in its sole discretion); and
  - (ii) which is issued by an institution in Canada licensed to conduct the business of an insurer in the Province of British Columbia which is approved by FortisBC Energy (in its sole discretion) and which meets the Minimum Credit Rating (and for the purposes of this Section 2.1(ff) Euler Hermes Canada is approved by FortisBC Energy as long as such institution meets the Minimum Credit Rating); and
  - (iii) which is capable of being drawn on or called upon at the issuing institution's offices in the City of Vancouver, British Columbia or such other city or municipality within the Province of British Columbia as may be acceptable to FortisBC Energy (in its sole discretion),

and for certainty, a reference to a Surety Bond includes and means the Surety Bond as modified, replaced or renewed or supplemented by any additional surety bond at any time during the Term;

- (hh) **"Term"** means the term of this Transportation Agreement which commences on the Commencement Date and subject to any earlier termination of this Transportation Agreement in accordance with Rate Schedule 50 or extension or renewal pursuant to Section 8.1, expires on the Expiry Date;

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- (ii) **"Termination Payment"** has the meaning given in Section 6.1;
- (jj) **"Toll Credit"** means the Demand Toll Credit or the Toll Credit (IT), as the context requires;
- (kk) **"Toll Credit (IT)"** has the meaning given in, and will be calculated in accordance with, Section 7.6;
- (ll) **"Third Party"** means any Person other than a Party or any of its Affiliates;
- (mm) **"Wilful Misconduct"** means any act or failure to act that was intentional and intended to cause or which was in reckless disregard of or wanton indifference to, the foreseeable consequences of such action or failure to act; and
- (nn) **"Woodfibre Party"** means PEC or WLNG, as the context requires.

**2.2 Interpretation.** Unless the context otherwise requires, in this Transportation Agreement:

- (a) the singular includes the plural and conversely and a gender includes all genders;
- (b) if a word or phrase is defined, its other grammatical forms have a corresponding meaning;
- (c) a reference to a person, corporation, trust, partnership, joint venture, unincorporated body or other entity includes any of them;
- (d) a reference to a Section or Schedule is a reference to a Section of or a Schedule to this Transportation Agreement;
- (e) a reference to an agreement or document (including a reference to this Transportation Agreement) is to the agreement or document as amended, varied, supplemented, novated or replaced except to the extent prohibited by this Transportation Agreement or that other agreement or document;
- (f) a reference to a party to this Transportation Agreement or another agreement or document includes the party's successors and permitted substitutes (including persons taking by novation) or assigns (and, where applicable, the party's legal personal representatives);
- (g) a reference to legislation or to a provision of legislation includes a modification or re-enactment of it, a legislative provision substituted for it and a regulation, code, by-law, ordinance or statutory instrument issued under it;
- (h) a reference to *dollars* and \$ is to the currency of Canada;
- (i) the word "including" means "including without limitation" and "include" and, "includes" will be construed similarly;
- (j) headings and any table of contents or index are for convenience only and do not form part of this Transportation Agreement or affect its interpretation;
- (k) a provision of this Transportation Agreement must not be construed to the disadvantage of a Party merely because that Party was responsible for the

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preparation of this Transportation Agreement or the inclusion of the provision in this Transportation Agreement;

- (l) a reference to any thing (including a right, obligation or concept) includes a part of that thing, but nothing in this Section 2.2(l) implies that performance of part of an obligation constitutes performance of the obligation; and
- (m) if an act is prescribed to be done on a specified day which is not a Business Day, it must be done instead on the next Business Day.

**2.3 Additional Terms.** Subject to Section 2.5, all rates, terms and conditions set out in Rate Schedule 50, as may be amended by FortisBC Energy and approved from time to time by the BCUC, are hereby incorporated by reference in this Transportation Agreement and are in addition to the terms and conditions contained in this Transportation Agreement and bind FortisBC Energy and the Shipper as if set out in this Transportation Agreement.

**2.4 Payment of Amounts.** Without limiting the generality of Section 2.3, the Shipper will pay to FortisBC Energy all of the amounts set out in Rate Schedule 50 for the services provided by FortisBC Energy to the Shipper under Rate Schedule 50 and this Transportation Agreement.

**2.5 Conflict.** Where anything in Rate Schedule 50 conflicts with any of the terms and conditions set out in this Transportation Agreement, this Transportation Agreement prevails to the extent of the inconsistency. The General Terms and Conditions of FortisBC Energy do not apply to the services provided by FortisBC Energy to the Shipper under Rate Schedule 50 and this Transportation Agreement.

**2.6 Acknowledgement.** Subject to the terms of this Transportation Agreement, the Shipper agrees to comply with and be bound by all terms and conditions set out in Rate Schedule 50. Without limiting the generality of the foregoing, where the transportation service provided by FortisBC Energy to Shipper under this Transportation Agreement is subject to curtailment as set out in Rate Schedule 50, the Shipper acknowledges that it is able to accommodate such curtailment and releases FortisBC Energy from any liability for the Shipper's inability to accommodate such curtailment of transportation service.

### **3. RESERVATION OF CAPACITY AND RESERVATION SECURITY**

#### **3.1 Reservation Security and Reservation Period.**

- (a) To reserve the capacity represented by the Contract Demand for the Shipper's exclusive future use during the Term, the Shipper shall, at its cost and expense, deliver to FortisBC Energy on the Reservation Security Commencement Date and on each anniversary of the Reservation Security Commencement Date during the Reservation Period, security in an amount equal to the Reservation Security Amount ("**Reservation Security**").
- (b) Subject to Section 3.1(c), all Reservation Security provided by the Shipper to FortisBC Energy pursuant to this Section 3.1 shall be in the form of a Letter of Credit.
- (c) FortisBC Energy may, at any time, in its sole discretion, elect to accept a guarantee (on terms and conditions satisfactory to FortisBC Energy) from a Third Party as Reservation Security.

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**3.2 Reservation Security Amount**

- (a) The amount of the Reservation Security that the Shipper shall provide to FortisBC Energy during the Reservation Period is:
  - (i) on the Reservation Security Commencement Date, the sum of eight million dollars (\$8,000,000);
  - (ii) in the case of each subsequent year during the Reservation Period, an additional sum of eight million dollars (\$8,000,000).
- (b) On each anniversary of the Reservation Security Commencement Date during the Reservation Period, the Reservation Security Amount shall increase by an amount equal to eight million dollars (\$8,000,000). For the avoidance of doubt and for illustrative purposes:
  - (i) on the second anniversary of the Reservation Security Commencement Date, the Reservation Security Amount shall increase by eight million dollars (\$8,000,000) to be sixteen million dollars (\$16,000,000);
  - (ii) on the third anniversary of the Reservation Security Commencement Date, the Reservation Security Amount shall increase by eight million dollars (\$8,000,000) to be twenty four million dollars (\$24,000,000); and
  - (iii) on the fourth anniversary of the Reservation Security Commencement Date, the Reservation Security Amount shall increase by eight million dollars (\$8,000,000) to be thirty two million dollars (\$32,000,000).
- (c) The Shipper shall (at its cost and expense) amend, replace, provide or supplement (as the case may be) the Reservation Security to ensure that at all times during the Reservation Period the amount of the Reservation Security is not less than the then current Reservation Security Amount.
- (d) The Shipper shall ensure that all Reservation Security remains valid and in full force and effect during the Reservation Period until released to the Shipper in accordance with this Transportation Agreement. At all times during the Reservation Period the Shipper shall not create, incur, suffer or permit to be created or incurred or to exist any Encumbrance on any Reservation Security.
- (e) The Shipper acknowledges and agrees that Sections 5.7 and 5.8 shall apply to the Reservation Security as if:
  - (i) a reference in the definition of Security Default to "Security" was to "Reservation Security";
  - (ii) a reference in Sections 5.7 and 5.8 to "Security" was to "Reservation Security"; and
  - (iii) a reference in Sections 5.7 and 5.8 to "Required Security Amount" was to "Reservation Security Amount".

Notwithstanding the foregoing, the last sentence of Section 5.8 shall not apply to the Reservation Security.

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**3.3 Termination of Reservation of Capacity.**

- (a) The Shipper acknowledges and agrees that:
  - (i) with effect from the CSA Termination Date, the capacity represented by the Contract Demand shall immediately cease to be reserved for the Shipper's exclusive future use and FortisBC Energy shall, at its option and without any liability whatsoever, be entitled to allocate that Contract Demand or any part of it to parties other than the Shipper; and
  - (ii) subject to Section 3.3(b) and Section 3.3(c), the Shipper, on or within 10 Days after the CSA Termination Date, shall pay FortisBC Energy an amount equal to the then current Reservation Security Amount as at the CSA Termination Date ("**Capacity Termination Payment**").
- (b) If the CSA Termination Date does not coincide with an anniversary of the first Day of the Reservation Period then for the purposes of calculating the Capacity Termination Payment that part of the Reservation Security Amount attributable to the year of the Reservation Period that commenced on the immediately preceding anniversary of the first Day of the Reservation Period shall be prorated (on a daily basis).
- (c) Unless and until this Transportation Agreement is approved by the BCUC (as contemplated by Section 10.3) or an Order in Council, the Shipper shall not be liable to pay FortisBC Energy the Capacity Termination Payment.

**3.4 Recourse to or Return of Reservation Security.**

- (a) FortisBC Energy may enforce and immediately draw down, realize or call upon the Reservation Security if and to the extent of any amount that is owed by the Shipper to FortisBC Energy under this Transportation Agreement on account of the Capacity Termination Payment which remains unpaid for a period of 5 Days following the date that such amount was due under Section 3.3(a)(i) and apply the proceeds of the Reservation Security to such unpaid amount.
- (b) The Shipper acknowledges and agrees that Section 13.6 of Rate Schedule 50 shall apply to the Reservation Security as if a reference in Section 13.6 of Rate Schedule 50 to "*Security*" was to "*Reservation Security*".
- (c) To the extent that FortisBC Energy has not previously had recourse to the Reservation Security FortisBC Energy shall return the Reservation Security to the Shipper on that date which is 14 Days after the earlier of:
  - (i) the Commencement Date; and
  - (ii) the date on which the Shipper has paid the Capacity Termination Payment in full to FortisBC Energy.
- (d) FortisBC Energy and the Shipper agree that:
  - (i) the Capacity Termination Payment is a genuine pre-estimate of the damages incurred by FortisBC Energy from the early termination of this Transportation Agreement and is not a penalty; and

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- (ii) upon payment of the Capacity Termination Payment in full this Transportation Agreement shall automatically terminate and FortisBC Energy shall be precluded from any other remedy against the Shipper at law or in equity or otherwise (including an order for specific performance) and shall not seek to obtain any recovery, judgment, or damages of any kind, including consequential, indirect, or punitive damages, against the Shipper or any of its Affiliates, or against any of their respective directors, officers, employees, partners, managers, members, shareholders or Affiliates in respect of the early termination of this Transportation Agreement.

**4. FIRM DEMAND TOLL APPLICABLE TO THE SHIPPER**

**4.1 Firm Demand Toll applicable to the Shipper.** The Firm Demand Toll applicable to the Shipper under this Transportation Agreement shall be determined in accordance with Section 4.1 of the Table of Charges to Rate Schedule 50.

**5. SECURITY AND CREDIT**

**5.1 Determination of Security.** Without limiting Section 2.5 and notwithstanding Sections 13.1, 13.2, 13.3, 13.4, of Rate Schedule 50, the Parties acknowledge and agree that for all purposes under Rate Schedule 50 and this Transportation Agreement, the nature, type and form of Security required by FortisBC Energy and the Required Security Amount will be determined in accordance with this Section 5.

**5.2 Form and Amount of Security.** Unless expressly agreed otherwise by FortisBC Energy, during the Term:

- (a) the nature, type and form of the Security required by FortisBC Energy will be one (1) or more Letters of Credit or one (1) or more Surety Bonds; and
- (b) the Security shall be in an amount not less than one hundred percent (100%) of the Required Security Amount.

Notwithstanding the foregoing, FortisBC Energy may, at any time, in its sole discretion, elect to accept a guarantee (on terms and conditions, and in an amount of the Required Security Amount, satisfactory to FortisBC Energy) from a Third Party as Security.

**5.3 Notices.**

- (a) Project Completion: Not later than twenty (20) Business Days prior to its expected occurrence, FortisBC Energy shall provide written notice to the Shipper of the expected Completion Date, and if delays are expected periodic and regular updates until the Completion Date is finally confirmed.
- (b) Security Amount: Within twenty (20) Business Days prior to the Completion Date and from time to time thereafter, FortisBC Energy will deliver a written notice to the Shipper advising the Shipper of the Required Security Amount FortisBC Energy has determined is required in accordance with Section 5.4.

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- 5.4 Required Security Amount.** The Required Security Amount shall be :
- (a) an amount equal to Firm Demand Toll multiplied by the Contract Demand multiplied by 90; or
  - (b) any greater amount required by the BCUC.
- For greater certainty, if FortisBC Energy applies to the BCUC under Section 5.4(b), then FortisBC Energy will not seek a security amount greater than the Required Security Amount as adjusted pursuant to this Transportation Agreement.
- 5.5 Obligation to Deliver Security.** If FortisBC Energy delivers written notice to the Shipper in respect of the Required Security Amount in accordance with Section 5.3(b), then the Shipper shall on or before the Completion Date, deliver to FortisBC Energy Security in an amount not less than the Required Security Amount.
- 5.6 Re-Determination of Required Security Amount.** On or within twelve (12) Business Days:
- (a) following receipt by the Shipper of notice of an increase to the Required Security Amount, the Shipper shall deliver to FortisBC Energy additional Security (whether by way of increasing the face value of the existing Security referred to in Section 5.5 or delivering new instruments of Security), such that, in either case the Shipper has delivered Security in an amount equal to the Required Security Amount;
  - (b) following receipt by the Shipper of notice of a reduction to the Required Security Amount, FortisBC Energy shall return and release to the Shipper an amount of the Security so that upon the return and release of such amount, the amount of the Security is equal to the Required Security Amount.
- 5.7 Replacement of Security.** Without limiting any other right or remedy of FortisBC Energy under this Transportation Agreement, Rate Schedule 50, at law or in equity, if a Security Default occurs then the Shipper shall, at its cost and expense, within fifteen (15) Business Days of the date on which the Security Default occurs, deliver additional Security to FortisBC Energy sufficient to supplement, replenish or replace (as the case may be) the existing Security such that the aggregate amount of the Security held by FortisBC Energy which conforms with the requirements of this Transportation Agreement and, as applicable, Rate Schedule 50, is not less than the then Required Security Amount.
- 5.8 No Limitation.** Nothing in this Section 5 shall affect the right of FortisBC Energy to recover from the Shipper the whole of any debt, money or damages, or any balance that remains, after recourse to the Security. Nothing in this Section 5 shall affect the obligation of FortisBC Energy to return and release to the Shipper Security in excess of the Required Security Amount pursuant to Section 13.7 of Rate Schedule 50.
- 6. TERMINATION PAYMENT**
- 6.1 Termination Payment.** Notwithstanding Section 22.3 of Rate Schedule 50, if FortisBC Energy terminates this Transportation Agreement in accordance with Section 22.1 (Default) or Section 22.2 (Bankruptcy or Insolvency) of Rate Schedule 50, then the Shipper shall pay to FortisBC Energy a payment, payable within ten (10) Business Days after the date such termination is effective, equal to any outstanding amounts due and payable by Shipper to

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FortisBC Energy under this Transportation Agreement and Rate Schedule 50 that remain unpaid as of the termination date plus an amount equal to the Net Present Value of the product of 75% x (Contract Demand x Firm Demand Toll x 365 days per year x the number of months from the termination date until the Expiry Date divided by 12) ("**Termination Payment**"). For the purposes of the preceding sentence and notwithstanding the foregoing, the number of months from the termination date until the Expiry Date shall in no circumstances exceed 24 months.

## 7. CONTRACT DEMAND, CURTAILMENT RIGHTS AND DEMAND TOLL CREDITS

**7.1 Contract Demand.** For the purposes of this Transportation Agreement "**Contract Demand**" means 40,000 GJ, subject to temporary adjustment under Section 7.2, in respect of which FortisBC Energy is obligated to provide Firm Transportation Service, provided that the volume weighted average Heat Content of the Gas received at the Receipt Point is not less than 38.9 MJ/m<sup>3</sup>. If FortisBC Energy reasonably determines in respect of any Day or future period that the volume-weighted average Heat Content for all Gas received at the Receipt Point during that Day or future period is or is reasonably likely to be less than 38.9 MJ/m<sup>3</sup>, then FortisBC Energy may by written notice to the Shipper adjust the Contract Demand for that Day or future period to an amount measured in GJ that FortisBC Energy reasonably estimates at the time of adjustment will allow FortisBC Energy to deliver to the Shipper the volumetric equivalent in 10<sup>3</sup> m<sup>3</sup> per Day of the Contract Demand.

### 7.2 Curtailment Rights.

- (a) Subject to Section 7.2(b), FortisBC Energy may, during the Service Period and upon having given twenty-four (24) hours prior written notice to the Shipper ("**Recallable Curtailment Notice**"), temporarily adjust the Authorized Quantity to a quantity specified in the Recallable Curtailment Notice which is less than that required by the Shipper as specified in its nomination schedule given by the Shipper to FortisBC Energy pursuant to Section 4.1 or Section 4.2 of Rate Schedule 50 (as the case may be). Each such Recallable Curtailment Notice will be in effect for the period specified in the notice, to a maximum of twenty-four (24) hours. FortisBC Energy may issue Recallable Curtailment Notices consecutively and as often as required for the purpose described in this Section 7.2.
- (b) FortisBC Energy shall not, in each Service Period, adjust the Authorized Quantity pursuant to Section 7.2(a) by more than 200,000 GJs in the aggregate, which quantity shall be pro-rated if the Service Period is less than twelve (12) months.

**7.3 Delivery Obligation.** Subject to Section 7.2, on each Day of the Term, the quantity of Gas which FortisBC Energy is obliged to transport and deliver pursuant to Section 5.1 of Rate Schedule 50 will be the lesser of:

- (a) the Contract Demand; and
- (b) the Authorized Quantity.

**7.4 Demand Toll Credits.** Subject to Section 7.8, if on any Day the Delivered Quantity is less than the lesser of the Contract Demand and the Authorized Quantity and the shortfall results from:

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- (a) any Maintenance on the System that is undertaken by FortisBC Energy on less than three (3) Days' notice to the Shipper; or
- (b) an event of Force Majeure which prevents FortisBC Energy from delivering to the Shipper at the Delivery Point all or any portion of the gas delivered by the Shipper to the Receipt Point on that Day; or
- (c) the issue of a Recalable Curtailment Notice,

then the Shipper will be entitled to a Demand Toll Credit for that Day which FortisBC Energy will apply to a following monthly bill rendered pursuant to Section 12 of Rate Schedule 50.

**7.5 Amount of Demand Toll Credit.** The Demand Toll Credit applied by FortisBC Energy in respect of any Day pursuant to Section 7.4 will be in an amount equal to the product of the Firm Demand Toll multiplied by the difference between the Delivered Quantity and the lesser of the Contract Demand and the Authorized Quantity.

**7.6 Interruptible Demand Toll Credits.** Subject to Section 7.8, if on any Day the Delivered Quantity is less than the lesser of the Contract Demand and the Authorized Quantity and the shortfall results from the Gross Negligence or Wilful Misconduct of FortisBC Energy then the Shipper will be entitled to a toll credit ("**Toll Credit (IT)**") for that Day which FortisBC Energy will apply to the Interruptible Demand Toll of the Primary Transportation Agreement (if any) invoiced in a following monthly bill and in each next following monthly bill, rendered pursuant to Section 12 of Rate Schedule 50 under the Primary Transportation Agreement until the Toll Credit (IT) is reduced to zero. Notwithstanding the foregoing, any Toll Credit (IT) which is not applied in the manner described above within thirty (30) months after the date on the Shipper first became entitled to the Toll Credit (IT) pursuant to this Section 7.6 shall automatically cease and be extinguished. For certainty:

- (a) the thirty (30) month period referred to above will apply separately to each Toll Credit (IT) to which the Shipper becomes entitled pursuant to this Section 7.6;
- (b) the thirty (30) month period for each Toll Credit (IT) will commence on the date on which the Shipper first became entitled to the Toll Credit (IT) pursuant to this Section 7.6;
- (c) subject to Section 7.6(d), any Toll Credit (IT) which has not been applied as at the expiration of the Term (including, for certainty, the Term as extended or renewed pursuant to Section 8.1) shall automatically cease and be extinguished; and
- (d) if the Term is extended or renewed pursuant to Section 8.1, then any Toll Credit (IT) which has not been applied or extinguished in accordance with this Section 7.6 as at the date of such extension or renewal, shall continue in full force and effect until subsequently applied by FortisBC Energy or extinguished in accordance with this Section 7.6.

**7.7 Amount of Toll Credit (IT).** The Toll Credit (IT) to which the Shipper is entitled in respect of any Day pursuant to Section 7.6 will be in an amount equal to the product of the Firm Demand Toll multiplied by the difference between the Delivered Quantity and the lesser of the Contract Demand and the Authorized Quantity.

**7.8 Limitations on Toll Credits.** For greater certainty, the Shipper will not be entitled to a Toll Credit if the shortfall in the Delivered Quantity results directly or indirectly from:

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- (a) any act or omission of the Shipper; or
- (b) the occurrence of one or more of the following, for any reason, including Force Majeure:
  - (i) the Shipper fails to deliver any portion of the Receipt Quantity to FortisBC Energy at the Receipt Point;
  - (ii) all or any portion of the gas delivered by the Shipper to FortisBC Energy at the Receipt Point fails to conform to the quality specifications set out in Section 14.1 of Rate Schedule 50; or
  - (iii) the Shipper fails to take delivery of Gas at any Delivery Point.

**8. RENEWAL AND ASSIGNMENT**

**8.1 Renewal of TSA.** If the Shipper delivers to FortisBC Energy a written notice, two (2) years prior to the Expiry Date, indicating its desire to extend or renew this Transportation Agreement, then as soon as reasonably practicable FortisBC Energy and the Shipper shall use commercially reasonable efforts to agree upon terms on which this Transportation Agreement will be extended or renewed. Any renewal or extension of this Transportation Agreement will:

- (a) be for the same term as the Primary Transportation Agreement is extended or renewed; and
- (b) such extension or renewal will commence concurrently with commencement of any extension or renewal of the term of the Primary Transportation Agreement.

For certainty and unless FortisBC Energy in its sole discretion expressly agrees otherwise, this Transportation Agreement cannot be extended or renewed unless the term of the Primary Transportation Agreement is concurrently extended or renewed. Any extension or renewal of the Term will result in a revised Expiry Date that will supersede the Expiry Date referred to in Section 1. The Demand Toll applicable during such additional term will be based on, among other factors, the then current book value of the Vancouver Island Transmission System.

**8.2 Assignment.**

- (a) For the purposes of this Section 8.2 “assign” and inflexions of “assign” means to sell, assign, transfer, licence, or otherwise dispose or part with possession of either directly or indirectly.
- (b) The Shipper may only assign all (but not less than all) of its rights and obligations under this Transportation Agreement to:
  - (i) the Assignee to whom FortisBC Energy has approved an assignment of the Primary Transportation Agreement under Section 7.2 of the Primary Transportation Agreement as long as such assignment is completed in accordance with Section 7.2 of the Primary Transportation Agreement; or
  - (ii) an Affiliate of the Shipper (being, for certainty, the Affiliate of the Shipper referred to in Section 7.4 of the Primary Transportation Agreement) as long

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as such assignment is completed in accordance with Section 7.4 of the Primary Transportation Agreement.

- (c) Any assignment by the Shipper of all of its rights and obligations under this Transportation Agreement permitted by Section 8.2(b):
  - (i) shall be undertaken and completed concurrently with any assignment by the Shipper of its rights and obligations under the Primary Transportation Agreement in accordance with Section 7 of the Primary Transportation Agreement;
  - (ii) in the case of an assignment to the Assignee, is subject to and conditional upon the Assignee first executing a written agreement (to be prepared by FortisBC Energy's counsel at the cost of the Assignee on terms satisfactory to the Parties) by which the Assignee agrees to assume the obligations of the Shipper under this Transportation Agreement; and
  - (iii) in the case of an assignment to an Affiliate of the Shipper, is subject to and conditional upon the Affiliate of the Shipper first executing and delivering to FortisBC Energy an agreement on terms satisfactory to FortisBC Energy and the Affiliate, by which the Affiliate agrees to be bound by and to perform and observe all of the terms and conditions of this Transportation Agreement binding upon and to be performed and observed by the Shipper and specifying an address for service, including the address and email address for the Affiliate.
- (d) The Shipper acknowledges and agrees that Section 7.3, 7.4(a)(iii), Section 7.4(b) and Section 7.5 of the Primary Transportation are incorporated by reference into this Transportation Agreement and shall apply *mutatis mutandis*.

## 9. DEFAULT

**9.1 Primary Transportation Agreement.** For the purposes of this Transportation Agreement and without limiting anything in Section 22 of Rate Schedule 50:

- (a) the Shipper will be deemed to be in default under this Transportation Agreement if under the Primary Transportation Agreement the Shipper has committed any of the acts of default described in Section 22.1 of Rate Schedule 50 and has failed to correct or rectify any such default within the applicable cure period (if any) set out in Section 22.1 of Rate Schedule 50; and
- (b) for certainty, if at any time under the Primary Transportation Agreement FortisBC Energy becomes entitled to terminate the Primary Transportation Agreement under the Section 22 of Rate Schedule 50 on account of the default of the Shipper or the bankruptcy or insolvency of the Shipper (as described in Section 22.2 of Rate Schedule 50) then notwithstanding anything to the contrary in this Transportation Agreement or Rate Schedule 50) FortisBC Energy shall be entitled to concurrently terminate this Transportation Agreement.

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**10. GENERAL**

**10.1 Independent Legal Advice.** The Shipper represents and warrants to FortisBC Energy that it has received independent legal advice regarding the terms of this Transportation Agreement and Rate Schedule 50.

**10.2 Direct Agreement.** FortisBC Energy agrees that it will, if requested by the Shipper, enter into a direct agreement with the Shipper's debt financiers ("**Financing Entities**"), in a form acceptable to FortisBC Energy, acting reasonably, acknowledging the Shipper's assignment of its rights under this Transportation Agreement by way of security and providing for customary step-in and cure rights upon any default of the Shipper under this Transportation Agreement. For certainty, FortisBC Energy will be taken to have acted reasonably if it does not accept a form of direct agreement proposed by the Financing Entities if FortisBC Energy considers that the proposed form of direct agreement would increase or enlarge the liability of FortisBC Energy under this Transportation Agreement or would prejudice or otherwise affect the rights, remedies and powers of FortisBC Energy under this Transportation Agreement.

**10.3 Condition Precedent.** All obligations of the Parties to this Transportation Agreement are subject to the approval by the BCUC (on terms satisfactory to FortisBC Energy and the Shipper) of the rates, terms and conditions set out this Transportation Agreement as a supplemental tariff to Rate Schedule 50, and will come into force and effect when approved by the BCUC.

**10.4 Acknowledgement.**

- (a) Subject to Section 10.4(b) and notwithstanding Section 18.2(b) and Section 18.2(c) of Rate Schedule 50, FortisBC Energy acknowledges and consents to the fact that:
  - (i) the Shipper may not be the sole legal and beneficial owner and user of the LNG Facility to which Gas is to be delivered under this Rate Schedule 50 and the Transportation Agreement;
  - (ii) the Shipper may enter into agreements with Third Parties with respect to the sale of Gas or LNG from the Shipper to such Third Parties in amounts less than the Contract Demand, and for periods less than the Service Period; and
  - (iii) the Shipper may not be responsible for acquiring under contract sufficient Gas supplies or reserves, nor sufficient gathering, processing and transportation capacity required to deliver to the Receipt Point the quantities of Gas to be transported and delivered by FortisBC Energy pursuant to this Transportation Agreement, nor for obtaining all governmental authorizations and approvals in connection therewith but if either FortisBC Energy or the Shipper is or at any time during the Term becomes responsible for acquiring or obtaining any of the foregoing items and things, then as between FortisBC Energy and the Shipper, the Shipper shall be solely responsible for acquiring or obtaining any such items and things.
- (b) The Shipper acknowledges and agrees that except to the extent specified in Section 10.4(a) in respect of Section 18.2(b) and Section 18.2(c) of Rate Schedule 50, nothing in Section 10.4(a) lessens or otherwise affects the obligations or liabilities

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of the Shipper under this Transportation Agreement, Rate Schedule 50, or at law or in equity.

- 10.5 First Shipper.** The Parties acknowledge and agree that the Shipper under this Transportation Agreement will not be the first shipper for the purposes of the Table of Charges to Rate Schedule 50.
- 10.6 Shipper More than one Person.** Each Woodfibre Party is, to the extent permitted by applicable law, jointly and severally liable for the obligations and liabilities of the Shipper set out in, created by or arising under or in connection with this Transportation Agreement and Rate Schedule 50.
- 10.7 Counterparts.** This Transportation Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which taken together shall be deemed to constitute one and the same instrument. Counterparts may be executed in original, faxed or e-mail form and the Parties adopt any signatures received by fax or e-mail as original signatures of the Parties.

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IN WITNESS WHEREOF the Parties have executed this Transportation Agreement.

**FORTISBC ENERGY INC.**


BY:   
(Signature)

President and CEO  
(Title)

Roger Dall'Antonia  
(Name - Please Print)

DATE: 3 May 2022

**PACIFIC ENERGY CORP.**


BY:   
(Signature)

EVP  
(Title)

Ron Bailey  
(Name - Please Print)

DATE: May 6, 2022

**WOODFIBRE LNG LIMITED.**

BY:   
(Signature)

EVP  
(Title)

Ron Bailey  
(Name - Please Print)

DATE: May 6, 2022

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**Schedule A  
Form of Letter of Credit**

To: FortisBC Energy Inc. DATE: \_\_\_\_\_  
16705 Fraser Highway  
Surrey, British Columbia, Canada  
V3S 2X7  
  
("Beneficiary")

**TRANSPORTATION AGREEMENT DATED MAY 1, 2022 BETWEEN AND PACIFIC ENERGY CORP. AND  
WOODFIBRE LNG LIMITED ("APPLICANT") AND FORTISBC ENERGY INC. ("AGREEMENT")**

Irrevocable Standby Letter of Credit No: \_\_\_\_\_

At the request of the Applicant, we hereby issue in your favour our irrevocable standby letter of credit No. \_\_\_\_\_ ("Letter of Credit") for a sum not exceeding in the aggregate CDN \$ [ ] ( \_\_\_\_\_ Canadian Dollars) effective immediately.

Subject to compliance with the drawing conditions set out in this Letter of Credit, this Bank hereby agrees to immediately pay to you under this Letter of Credit any amount or amounts claimed, not exceeding in the aggregate the sum of CDN \$ \_\_\_\_\_, upon your written demand(s) for payment being made upon us at our counter during normal business hours, upon [ ] (Vancouver office), [ ], Suite [ ], Vancouver, British Columbia, [ ] [ ], Canada referencing this Letter of Credit No. \_\_\_\_\_ dated \_\_\_\_\_.

Partial drawings are permitted.

This Letter of Credit is issued subject to the Uniform Customs and Practice for Documentary Credits, 1993 revision, ICC publication no. 500 and the laws of the Province of British Columbia. In case of conflict between the rules of the ICC publication no. 500 and the laws of the Province of British Columbia, the laws of the Province of British Columbia will prevail.

Drawings up to the full amount of this Letter of Credit may be made where the drawing is accompanied by a certificate executed by an officer or director of the Beneficiary stating that:

- (a) the person signing the certificate is an officer or director of the Beneficiary; and
- (b) the Beneficiary is entitled to call down upon this Letter of Credit.

Any drawings made under this Letter of Credit must be accompanied by the original of this Letter of Credit, together with an original certificate complying with the conditions set out above.

We will honour your written demand(s) for payment on presentation without enquiring whether you have a legitimate claim between yourself and the Applicant.

All banking charges are for the account of the Applicant.

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This Letter of Credit will expire at the counters of our Vancouver office at the close of business on \_\_\_\_\_ . It is a condition of this Letter of Credit that it will be automatically extended for an additional period(s) of one year from the present, or any future, expiry date, unless not less than one hundred twenty (120) days prior to such date we notify the Beneficiary in writing by registered mail or by hand-delivered courier that we elect not to extend this Letter of Credit for such additional period(s).

\_\_\_\_\_  
Authorized Signatory

\_\_\_\_\_  
Authorized Signatory

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