

## MARITIMES & NORTHEAST PIPELINE

### SERVICE AGREEMENT FOR TOLL SCHEDULE MN365

This Service Agreement is made and entered into this 23<sup>rd</sup> day of April, 2000, by and between Maritimes & Northeast Pipeline Limited Partnership (herein called "Pipeline") and Enbridge Gas New Brunswick Inc. (herein called "Customer")

#### WITNESSETH:

WHEREAS, Customer has requested and Pipeline has agreed to transport quantities of gas that are delivered by Customer or Customer's agent to Pipeline pursuant to the terms of this Service Agreement.

WHEREAS, in order to provide service as requested by Customer, Pipeline will construct new facilities.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and agreements herein contained, the parties do covenant and agree as follows:

#### ARTICLE I SCOPE OF AGREEMENT

The commencement of service under this Service Agreement and the rights and obligations of Pipeline and Customer herein are expressly made subject to the satisfaction of the following conditions precedent; provided, however, that any such condition may be waived in writing by the Party for whose benefit the condition is imposed.

- (a) Conditions Precedent for the benefit of Pipeline:
  - (i) Completion by Pipeline of any required facilities;
  - (ii) Receipt and acceptance by Pipeline of authorizations from the National Energy Board for any required facilities;
  - (iii) Receipt of an affirmative vote of the management of Pipeline to construct any required facilities subsequent to receipt of the authorizations contemplated in subparagraph (a)(ii) above; and
  - (iv) Receipt and acceptance by Pipeline of a financial commitment or commitments from financial institutions acceptable to Pipeline to make the capital expenditures necessary to enable it to construct any required facilities.

- (b) Condition Precedent for Benefit of Customer:
- (i) Receipt, by September 1, 2000, of an affirmative vote of the Board of Directors of Customer with respect to this Service Agreement.

Transportation service hereunder will be firm and Pipeline agrees to deliver for Customer's account quantities of natural gas up to the following quantity:

Maximum Daily Transportation Quantity (MDTQ) = 11,785 GJ

Pipeline will receive for Customer's account for transportation hereunder daily quantities of gas up to Customer's MDTQ, plus Fuel Retainage Quantity, at Point(s) of Receipt as specified in Article IV herein. Pipeline will transport and deliver for Customer's account such daily quantities tendered up to Customer's MDTQ at Point(s) of Delivery as specified in Article IV herein.

On any given Day, Pipeline shall not be obligated to, but may at its sole discretion, receive at Point(s) of Receipt quantities of gas in excess of Pipeline's Maximum Daily Receipt Obligation (MDRO), plus Fuel Retainage Quantity, but shall not be obligated to receive in the aggregate at all Points of Receipt on any Day a quantity of gas in excess of the applicable MDTQ, plus Fuel Retainage Quantity. On any given Day, Pipeline shall not be obligated to, but may at its sole discretion, deliver at Point(s) of Delivery quantities of gas in excess of Pipeline's Maximum Daily Delivery Obligation (MDDO), but shall not be obligated to deliver in the aggregate at all Points of Delivery on any Day a quantity of gas in excess of the applicable MDTQ.

## ARTICLE II TERM OF AGREEMENT

This Service Agreement shall become effective as of the date set forth herein above. Service under this Service Agreement shall commence on the "Service Commencement Date" which shall be the latest to occur of: (i) November 1, 2000; or (ii) the Date of Commencement of Service. Pipeline covenants to use all reasonable efforts to construct all facilities required for Pipeline to provide service as contemplated by this Service Agreement by November 1, 2000, and to be in service by that date, or as soon thereafter as practicable, subject to receipt of any required National Energy Board authorizations acceptable to Pipeline. This Service Agreement shall continue in effect for a term of Twenty (20) years ("Primary Term") from the first day of the first full month following the Service Commencement Date and shall remain in force from year to year thereafter unless terminated by either party by written notice at least two years prior to the end of the Primary Term or any successive term thereafter.

If the Service Commencement Date has not occurred by November 1, 2001, either party shall thereafter have the right, but not the obligation, to terminate this Service Agreement without financial obligation and/or liability, except as provided for in the Addendum to this Service Agreement, by providing notice of its intention to do so to the other party and this Service Agreement shall terminate on the ninetieth (90th) day

following the date of receipt of such notice by the other party unless in the interim the Service Commencement Date has occurred.

If any condition precedent is not satisfied or waived by the date specified, or by January 1, 2001 if no date is specified, either party shall thereafter have the right, but not the obligation, to terminate this Service Agreement without financial obligation and/or liability, except as provided for in the Addendum to this Service Agreement, by providing notice of its intention to do so to the other party and this Service Agreement shall terminate on the thirtieth (30th) day following the date of receipt of such notice by the other party unless in the interim the subject condition precedent is satisfied or waived in writing by the party for whose benefit the condition is imposed.

Any portions of this Service Agreement necessary to correct or cash-out imbalances or to make payment under this Service Agreement as required by the Pipeline's General Terms & Conditions "GT&C" will survive the other parts of this Service Agreement until such time as such balancing or payment has been accomplished.

### ARTICLE III TOLL SCHEDULE

For the entire period when this Service Agreement is in effect, this Service Agreement will be subject to all provisions of Toll Schedule MN365 and the GT&C of Pipeline's Tariff on file with the National Energy Board, all of which are by this reference made a part hereof. Any capitalized term in this Service Agreement not defined herein shall have the meaning attributed to them in the GT&C.

Customer agrees to and will pay Pipeline all Reservation, Usage and other charges and fees provided for in Toll Schedule MN365, as effective from time to time, for service under this Service Agreement.

Customer agrees that Pipeline shall have the unilateral right to file with the appropriate regulatory authority and make changes effective in: (i) the Tolls and charges applicable to service pursuant to Pipeline's Toll Schedule MN365 and under the Tariff; (ii) Pipeline's Toll Schedule MN365; and/or (iii) any provision of the GT&C under the Tariff. Customer shall have the right to intervene and protest any such filing.

### ARTICLE IV POINT(S) OF RECEIPT AND DELIVERY

The Point(s) of Receipt and Point(s) of Delivery at which Pipeline shall receive and deliver gas, respectively, shall be specified in Exhibit(s) A and B of this Service Agreement.

Exhibit(s) A and B are hereby incorporated as part of this Service Agreement for all intents and purposes as if fully copied and set forth herein at length.

## ARTICLE V QUALITY

All natural gas tendered to Pipeline for Customer's account shall conform to the quality specifications set forth in the GT&C. Customer agrees that if Customer tenders gas for service hereunder and Pipeline accepts such gas which does not comply with Pipeline's quality specifications, Customer will pay all costs associated with processing of such gas as necessary to comply with such quality specifications.

## ARTICLE VI ADDRESSES

Except as herein otherwise provided or as provided in the GT&C, any notice, request, demand, statement, invoice or payment provided for in this Service Agreement, or any notice which any party desires to give to the other, must be in writing and delivered personally or by courier, first class mail or facsimile to the address of the relevant party as follows:

- (a) Pipeline:                   Maritimes & Northeast Pipeline Limited Partnership  
  c/o Marketing Manager  
  Maritimes & Northeast Pipeline Management Ltd.  
  Suite 1600, 1801 Hollis Street  
  Halifax, Nova Scotia  
  B3J 3N4
- Ph:   (902) 425-4474  
  Fax:   (902) 420-0253
- (b) Customer:                   Enbridge Gas New Brunswick Inc.  
  c/o Manager, Business and Channel Development  
  440 Wilsey Road, Suite 203  
  Fredericton, New Brunswick  
  E3B 7G5
- Ph:   (506) 444-7773  
  Fax:   (506) 452-2868

Any such notice, request, demand, statement, invoice or payment will be considered duly delivered: (i) at the time of its delivery if personally delivered or sent by facsimile; (ii) on the Business Day following transmittal thereof if sent by courier; or (iii) on the third Business Day following mailing thereof if sent by first class mail.

## ARTICLE VII ASSIGNMENTS

Any entity which succeeds by purchase, merger, or consolidation to the properties, substantially or in entirety, of Customer or of Pipeline will be entitled to the rights and will be subject to the obligations of its predecessor in title under this Service Agreement. Either Customer or Pipeline may assign or pledge this Service Agreement under the provisions of any mortgage, deed of trust, indenture, bank credit agreement,

assignment, receivable sale, or similar instrument which it has executed or may execute hereafter. In addition, Customer may assign its rights to capacity pursuant to the GT&C.

Except as set forth above, neither Customer nor Pipeline shall assign this Service Agreement or any of its rights hereunder without the prior written consent of the other party and neither Customer nor Pipeline shall be released from its obligations hereunder without the consent of the other.

#### ARTICLE VIII AGENCY ARRANGEMENT

Customer shall have the right to designate in writing an agent or person to provide nomination and scheduling information, to receive invoices and make payments, to take actions necessary to release capacity and handle imbalance resolutions for Customer on Customer's behalf. Customer must provide Pipeline with ten (10) Business Days' advance written notice of the designation or termination of its agent and the effective date after which Pipeline is to act in accordance with such designation or termination. Customer shall thereafter have the right to terminate the designation of such agent upon notice to Pipeline. Pipeline shall be entitled to rely on the representations, actions, and other directions of the agent on behalf of Customer and will be fully protected in relying upon such agent. Customer indemnifies and holds Pipeline harmless with respect to actions taken by Pipeline in reliance on Customer's agent.

#### ARTICLE IX NONRECOURSE OBLIGATION OF LIMITED PARTNERSHIP, GENERAL PARTNER AND OPERATOR

Customer acknowledges and agrees that: (a) Pipeline is a New Brunswick limited partnership; (b) Customer shall have no recourse against any partner of Pipeline or against Maritimes & Northeast Pipeline, L.L.C. or a member thereof with respect to Pipeline's obligations under this Service Agreement and that its sole recourse shall be against the assets and revenues of Pipeline, irrespective of any failure to comply with applicable law or any provision of this Service Agreement; (c) no claim shall be made against any partner of Pipeline or against Maritimes & Northeast Pipeline, L.L.C. or a member thereof under or in connection with this Service Agreement, except that the General Partner may be joined as a nominal party for the purpose of enforcing Customer's rights hereunder; (d) no claims shall be made against the Operator, its officers, employees, and agents, under or in connection with this Service Agreement and the performance of its duties as Operator (provided that this shall not bar claims resulting from the gross negligence, undue discrimination or willful misconduct of the Operator) and Customer shall provide the Operator with a waiver of subrogation of Customer's insurance company for all such claims; and (e) this representation is made expressly for the benefit of the partners in Pipeline, the General Partner, Operator, Maritimes & Northeast Pipeline, L.L.C. and its members.

ARTICLE X  
INTERPRETATION

The parties hereto agree that the interpretation and performance of this Service Agreement must be in accordance with the laws of the Province of New Brunswick without recourse to the law governing conflict of laws.

This Service Agreement and the obligations of the parties are subject to all applicable present and future valid laws with respect to the subject matter, Provincial and Federal, and to all valid present and future orders, rules, and regulations of duly constituted authorities having jurisdiction.

ARTICLE XI  
CANCELLATION OF PRIOR CONTRACT(S)

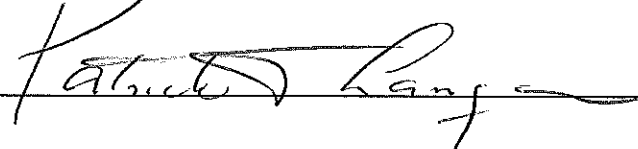
This Service Agreement supersedes and cancels, as of the effective date of this Service Agreement the contract(s) between the parties hereto as described below:

NIL

IN WITNESS WHEREOF, the parties hereto have caused this Service Agreement to be executed by their respective duly authorized officers the day and year first above written.

**MARITIMES & NORTHEAST PIPELINE LIMITED PARTNERSHIP**  
By its General Partner  
**MARITIMES & NORTHEAST PIPELINE MANAGEMENT LTD.**

BY:

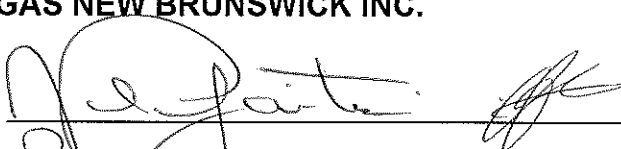
  
\_\_\_\_\_

TITLE:

\_\_\_\_\_

**ENBRIDGE GAS NEW BRUNSWICK INC.**

BY:

  
\_\_\_\_\_

TITLE:

PRESIDENT  
\_\_\_\_\_

EXHIBIT A

to

SERVICE AGREEMENT UNDER  
TOLL SCHEDULE MN365  
BETWEEN  
MARITIMES & NORTHEAST PIPELINE LIMITED PARTNERSHIP  
AND  
ENBRIDGE GAS NEW BRUNSWICK INC.

DATED \_\_\_\_\_, 2000

FIRM RECEIPT POINT(S)

<u>RECEIPT POINT</u>	<u>MDRO</u>	<u>RECEIPT PRESSURE LIMITATIONS</u>
<u>Primary</u> Goldborough, Nova Scotia	11,785 GJ	1,440 psig
<u>Secondary</u> St. Stephen, New Brunswick	11,785 GJ	

Signed for Identification

Pipeline:

Customer:

Mkt.aggr/enbridge/04.13.00

Robert Lang  
 [Signature]

EXHIBIT B

to

SERVICE AGREEMENT UNDER  
TOLL SCHEDULE MN365  
BETWEEN  
MARITIMES & NORTHEAST PIPELINE LIMITED PARTNERSHIP  
AND  
ENBRIDGE GAS NEW BRUNSWICK INC

DATED \_\_\_\_\_, 2000

FIRM DELIVERY POINT(S)

<u>DELIVERY POINT</u>	<u>MDDO</u>	<u>DELIVERY PRESSURE LIMITATIONS</u>
<u>Primary</u>		
Fredericton City Gate		325 psig
Moncton City Gate		325 psig
Saint George City Gate		325 psig
Saint John West City Gate		325 psig
Saint John North City Gate		325 psig
Saint John East City Gate		325 psig
Saint John South City Gate	_____	325 psig
Aggregate MDDO	11,785 GJ	

At no time shall Pipeline be required to make deliveries to a primary delivery point in excess of the custody transfer station design capacity at that primary delivery point.

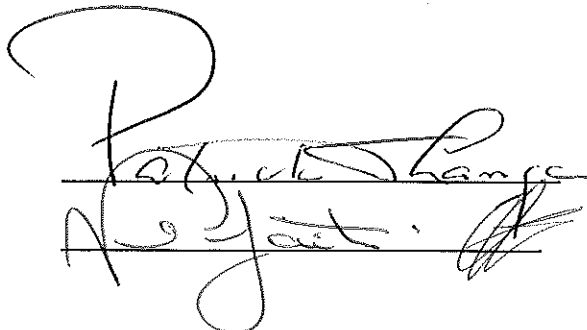
Secondary

All other delivery points on the mainline and lateral facilities

Signed for Identification

Pipeline:

Customer:



Handwritten signature of Peter Stange (Pipeline) and a signature for the Customer (likely Enbridge Gas New Brunswick Inc).

## ADDENDUM

### PAYMENT PROVISION

Facilities required to be constructed by Pipeline to provide the services contemplated by this Service Agreement consist of: (i) custody transfer facilities to serve four delivery points to Saint John, New Brunswick and single delivery points to each of Fredericton, Moncton and St. George; and (ii) laterals to the delivery points in Moncton and St. George, New Brunswick.

If this Service Agreement is terminated as a result of a condition for the benefit of either party not having been satisfied or waived or as a result of the Service Commencement Date not having occurred by November 1, 2001, then:

- (i) Customer shall reimburse Pipeline for all third party costs incurred or irrevocably committed to by Pipeline in furtherance of rendering the services contemplated by this Service Agreement, including facilities construction and procurement costs;
- (ii) title to all materials which have not been installed on Pipeline's system shall be transferred by Pipeline to Customer, and such materials shall be for Customer's use absolutely. Title to materials installed on Pipeline's system shall remain with Pipeline and shall be for Pipeline's use absolutely; and
- (iii) Pipeline shall have the option, not to be unreasonably withheld by Customer, to purchase from Customer the materials described above and land owned by Customer deemed by Pipeline to be integral to the ongoing operation of its system, subject to any required regulatory approval. Purchase price will be at fair market value.

Signed for Identification

Pipeline:

Customer:

