

# **GAS TRANSMISSION AGREEMENT**

**BETWEEN**

**INDIAN OIL CORPORATION LIMITED**  
**(AS TRANSPORTER)**

**AND**

---

**(AS SHIPPER)**

\_\_\_\_ DAY OF \_\_\_\_\_ TWO THOUSAND AND \_\_\_\_\_

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**This Gas Transmission Agreement (hereinafter this “Agreement”) made on \_\_\_\_ Day of \_\_\_\_\_ 20\_\_\_\_ between:**

**Indian Oil Corporation Limited [IOCL]** , a Government company incorporated under the Companies Act, 1956, having its registered office at Indian Oil Bhavan, G-9, Ali Yavar Jung Marg, Bandra (East), Mumbai – 400 051 and Pipelines Head-office at Indian Oil Bhawan, A-1, Udyog Marg, Sector-1, Noida, UP – 201301 through its Regional office at Indian Oil Corporation Ltd, Northern Region Pipelines, Panipat (Haryana).

- (1) **Indian Oil Corporation Limited [IOCL]** (hereinafter called as **“Transporter”**) which expression shall, unless repugnant to the meaning or context thereof, include its successors and assigns of the first part; and
- (2) \_\_\_\_\_, a company/ ~~firm/proprietary concern/society~~ incorporated under the Companies Act, 1956/Partnership Act/Societies Registration Act/Cooperative Societies Act/Statute, having its registered office at having its registered office at \_\_\_\_\_ (hereinafter called as **“Shipper”**) which expression shall, unless repugnant to the meaning or context thereof, include its successors and assigns of the second part

**WHEREAS: -**

- (a) The Transporter is engaged in the business of transmission/processing of gas and owns & operates natural gas pipelines/processing plants. Further, transporter may build new transmission facilities or buy capacity from any other transporter for the purpose of providing Transmission Services.
- (b) The Shipper is having existing facilities or creating facilities which requires Gas as fuel/feedstock or has plans to sell gas to various consumers. The Shipper has requested the Transporter to make necessary arrangements for transportation of Gas from Delivery Point to Redelivery Point on **Dadri Panipat Pipeline (DPPL)**. **(This shall be specific to the Pipeline)**
- (c) Shipper has requested the Transporter to provide arrangements for receipt of Gas at the Delivery Point(s) on **Dadri**, transmission of Gas and delivery of certain quantities of Gas at the Redelivery Point(s) on **Dadri Panipat Pipeline (DPPL)** and Transporter has agreed to do so subject to and on the terms and conditions hereinafter contained; **(This shall be specific to the Pipeline)**
- (d) The Shipper agrees to pay Transmission Charges and other charges to the Transporter in accordance with the terms and conditions of this Agreement.

**PARTIES HEREBY AGREE** as follows: -

**CLAUSE 1 – DEFINITIONS**

- 1.1 Except as stated otherwise, the following terms shall have the meaning assigned hereof for the purposes of this Agreement:
  1. **“Acceptable Pressure Range”** means the pressure range specified in Kg/Cm<sup>2</sup> for each Delivery Point and Redelivery Point as set out under the CT Agreement.
  2. **“Access Code for Common Carrier or Contract Carrier Natural Gas Pipelines”** or **“Access Code”** shall mean the regulation of this name notified by Board and its amendments from time to time.
  3. **“Act”** means the Petroleum & Natural Gas Regulatory Board Act, 2006.

4. **“Affected Party”** shall mean a Party, which is adversely affected by Force Majeure or a Change in Law.
5. **“Affiliate”** shall mean any company (i) which is directly or indirectly controlled by a Party to this Agreement; (ii) which, directly or indirectly, controls a Party; or (iii) which is, directly or indirectly, controlled by a company which also, directly or indirectly, controls a Party. For the purposes of this definition, “control” means the right to cast fifty percent (50%) or more of the votes exercisable at an annual general meeting of such party (or its equivalent) or ownership of fifty percent (50%) or more of the equity share capital of or other ownership interests in such entity, or the right to direct the policies or operations of such entity.
6. **“A Homogeneous Area or AHA”** means a part of the pipeline within which the gas of similar specification including calorific value is received or delivered over a specified time period.
7. **“Allocation Data”** as defined in the Operating Code.
8. **“Allocated Quantity”** as defined in the Operating Code.
9. **“Appointing Authority”** means Director (or any person holding an equivalent senior faculty position) of the Indian Institute of Technology.
10. **“Authorised Overrun Charge”** means the charge paid by Shipper for Authorised Overrun Quantity which shall be calculated in accordance with Clause 6.2 (a) of this Agreement
11. **“Authorised Overrun Day”** shall be a Day on which the Transporter has agreed, at the request of the Shipper, to transmit quantities of Gas in excess of the CT Redelivery Point MDQ.
12. **“Authorised Overrun Quantity”** for a CT and on a Day, shall mean the quantities above the CT Redelivery Point MDQ, agreed by the Transporter for transmission, at the request of the Shipper.
13. **“Authorised Overrun Rate”** for a CT shall be in accordance with Annexure-1 of this Agreement.
14. **“Bar”** shall have the meaning defined in ISO 1000:1981(E).
15. **“Board”** means the Petroleum & Natural Gas Regulatory Board established under sub-section (1) of section 3 of the Act.
16. **“British Thermal Unit”** or **“BTU”** means "the quantity of heat required to raise the temperature of one (1) avoirdupois pound of pure water from fifty-nine (59) degrees Fahrenheit to sixty (60) degrees Fahrenheit at an absolute pressure of fourteen decimal six nine six (14.696) pounds per square inch.
17. **“Buyer”** shall mean the entity with whom the Shipper has signed the GSA to sell Gas for transmission under this Agreement.

18. **“Capacity Tranche”** or **“CT”** or **“CT Agreement”** or **“CTA”** or **“Booked Capacity”** is defined in Clause 4.1 (a).
19. **“Capacity Tranche Delivery Point MDQ”** or **“CT Delivery Point MDQ”** is defined in Clause 4.1b).
20. **“Capacity Tranche End Date”** or **“CT End Date”** is defined in Clause 4.1e).
21. **“Capacity Tranche Redelivery Point MDQ”** or **“CT Redelivery Point MDQ”** is defined in Clause 4.1c).
22. **“Capacity Tranche Start Date”** or **“CT Start Date”** is defined in Clause 4.1d).
23. **“Change in Law”** shall have the meaning assigned to the term in Clause 12.1.
24. **“Common Carrier”** means such pipelines for transportation of natural gas by more than one entity as the Board may declare or authorize from time to time on a non-discriminatory open access basis under sub-section (3) of section 20 of Act.
25. **“Contracted Capacity”** shall mean the natural gas volume contracted for transportation through a pipeline system, in the form of MDQ.
26. **“Contract Year”** for any CT shall mean the period from first Day of January to thirty-first Day of December, both inclusive, except for (i) the first Contract Year which shall mean a period commencing from the CT Start Date and ending on the last Day of immediately following month of December and (ii) for the last Contract Year which shall mean period commencing on the first Day of a January immediately preceding the CT End Date and ending on the CT End Date.
27. **“Cumulative Positive Imbalance”** shall be as defined in the **Operating Code**.
28. **“Cumulative Negative Imbalance”** shall be as defined in the **Operating Code**.
29. **“Custody Transfer Meter”** means a device or devices which measures the quantity of natural gas (in terms of volume and energy) for transfer of custody from one entity to another.
30. **“Day”** shall mean a period of twenty-four (24) consecutive hours beginning at 0600 hours on a day and ending at 0600 hours on the following day.
31. **“Default Notice”** shall have the meaning given to that expression in Clause 13.2.
32. **“Degree Celsius”** and **“°C”** shall mean the particular interval between the actual temperature in Kelvin and the reference temperature 273.15 (two seven three decimal one five) Kelvin as defined in ISO 1000-1981(E).
33. **“Delivery Point”** or **“Delivery Points”** is defined in the Operating Code.
34. **“Due Date”** shall have the meaning as defined in Clause 8.4 (a)
35. **“Entry Point”** shall mean Delivery Point defined above.

36. **“Event of Default”** shall mean a Shipper Event of Default and/or Transporter Event of Default (as defined in Clause 13.1) as the context may require.
37. **“Exit Point”** shall mean Redelivery Point defined below.
38. **“Expert”** shall mean a person appointed to resolve disputes in accordance with the Clause 17.
39. **“Firm Daily Nominated Quantity”** or **“FDNQ”** shall be as defined in the Operating Code.
40. **“Force Majeure”** shall have the meaning given to that expression in Clause 11.
41. **“Fortnight”** means a period commencing on the first Day of a month and ending on fifteenth Day of such month or a period commencing from sixteenth Day of the month and ending on the last Day of such month provided that the first Fortnight under any CT Agreement shall begin on the Day of the relevant CT Start Date and end on the fifteenth Day of that same month or on the last Day of the same month, as the case may be, and the last Fortnight shall begin on the first Day or the sixteenth Day, as the case may be, of the month in which the last Day of the relevant CT period falls or, if earlier, the date of termination of the relevant CT Agreement and end on the relevant CT End Date or such date of termination.
42. **“Fortnightly Invoice”** shall be as specified in Clause 8.1.
43. **“GSA”** shall mean the gas sales agreement between Seller and the Shipper and any amendments thereto.
44. **“Gas”** shall mean any hydrocarbons and other gases consisting primarily of Methane at prevailing pressure and temperature at Delivery / Redelivery Point or is predominantly in the gaseous state, which meets the Specification.
45. **“Gas Transmission”** is defined in Clause 2.3.
46. **“Government Instrumentality”** means the Government of India, Petroleum & Natural Gas Regulatory Board (**“Board”**), the Government of any other State in India, or any political subdivision, ministry, department, agency, corporation, commission or any regional, local or municipal authority or governmental body thereof or any other governmental or statutory body under the direct or indirect control of the Government of India or any other State in India, or of any political subdivision, ministry, department, agency, corporation, commissioner any regional, local or municipal authority or governmental body thereof, and shall include, without limitation, any other governmental or statutory body or regulatory body having jurisdiction over the Transporter’s Facilities and/or Shipper’s Facilities or over the performance of any part of work or the works or any obligation of the Transporter and the Shipper under the Agreement.
47. **“Gross Heating Value”** or its abbreviation **“GHV”** (or **“GCV”**) shall mean the quantity of heat, expressed in MMBTUs or Kcals, produced by the complete combustion at constant pressure of one (1) Standard Cubic Meter of Gas, with the air at the same

temperature and pressure as the Gas and the products of combustion are cooled to original temperature & pressure and the water formed by combustion is condensed to liquid state.

48. **“Imbalance Charge”** shall mean the Positive Imbalance Charge and the Negative Imbalance Charge and shall be calculated in accordance with Clause 6.3.
49. **“Imbalance Quantity”** on any Day, shall mean the Positive Imbalance Quantities or the Negative Imbalance Quantities and shall be determined in accordance with the provisions of the Operating Code.
50. **“Imbalance Rate”** shall mean the Positive Imbalance Rate and the Negative Imbalance Rate and shall be as specified in Annexure 1 of this Agreement.
51. **“Insolvent event”** – A Shipper or Transporter shall be deemed insolvent upon the happening of one or more of the following events:
  - (a) if either Party has commenced a voluntary proceeding under any applicable bankruptcy, insolvency, winding up or other similar law;
  - (b) if any involuntary proceedings has commenced under any applicable bankruptcy, insolvency, winding up or other similar law;
  - (c) the appointment or taking possession by a receiver, liquidator, lenders agent or security trustee (or similar official) for any or a substantial part of either Party's property.
52. **“Interest”** shall mean a charge for late payment on the amount remaining unpaid applicable from the Due Date to the date of actual payment of such amount and the same shall be calculated by multiplying (a) the difference in the amount agreed or determined to be due and payable and the amount actually paid by (b) the ratio of the number of Days from the original Due Date to the date of actual payment to three hundred and sixty five (365) by (c) the State Bank of India's Base Rate ( highest one during the delay period) plus six decimal two five percent (6.25%) accruing daily basis and calculated on Simple Interest Basis.
53. **“Kcal”** means one thousand calories and is equal to 3.968254 BTUs.
54. **“Law”** or **“Legislation”** shall mean any Act, notification, by law, rule, regulation, directive, ordinance, order or instruction having the force of law enacted or issued by the Central Government or any other State Government or regulatory authority or government agency;
55. **“Lenders”** shall mean party providing debt financing or re-financing to any of the Parties to this Agreement.
56. **“Liquidated Damages”** shall be in accordance with the Clause 7.2 of this Agreement.
57. **“Maximum Daily Quantity (MDQ)”** shall have the meaning given in definition under the terms **“Capacity Tranche Redelivery Point MDQ”** or **“CT Redelivery Point MDQ”**



58. **“Maximum Delivery Rate”** and its abbreviation **“MDR”** is defined in the Operating Code.
59. **“Maximum Offtake Rate”** and its abbreviation **“MOR”** is defined in the Operating Code.
60. **“Measured Quantities”** in respect of a Day and a Point, shall be the quantity of Gas, in MMBTU, which is determined to have flowed through the Point during that Day in accordance with the provisions of this Agreement or the Operating Code.
61. **“MMBTU”** means one million BTUs.
62. **“Negative Imbalance Quantity”** shall be as defined in the Operating Code.
63. **“Negative Imbalance Rate”** shall be as per Annexure 1.
64. **“Net Heating Value”** means the quantity of heat in Kilocalories evolved by complete combustion at constant pressure of 1 SCM of Gas with air at the same pressure and temperature as of gas, air and the products of combustion cooled to initial temperature & pressure and all water formed by combustion reaction remaining in vapor state.
65. **“Off-spec Natural Gas” or “Off-spec Gas”** means the natural Gas which does not conform to the parameters specified in Annexure–2 of this Agreement and Access Code.
66. **“Operating Code”** shall be in accordance with EXHIBIT -D of this Agreement. Operating Code shall also mean the “Access Arrangement” which defines the terms and conditions for access to a pipeline system.
67. **“Party”** shall mean Transporter or Shipper, individually and **“Parties”** shall mean Transporter and Shipper, collectively.
68. **“Person”** shall include any person, company, partnership, joint venture, association, corporation or other body corporate and any government agency
69. **“Planned Works”** shall have the meaning as defined in Clause 10.
70. **“Point”** shall mean either Delivery Point or Redelivery Point, as the context requires.
71. **“Positive Imbalance Quantity”** shall be as defined in the Operating Code.
72. **“Positive Imbalance Rate”** shall be as per Annexure 1.
73. **“Proposal”** is defined in Clause 2.2.
74. **“Reasonable and Prudent Operator”** and its abbreviation **“RPO”** shall mean a person seeking in good faith to perform its contractual obligations hereunder and, in the process of doing so and in the overall conduct of its whole undertaking exercising that degree of diligence, prudence and foresight which can reasonably and ordinarily be expected from a skilled and experienced operator engaged in the same type of undertaking under the same or similar circumstances, and any reference to the standard of a Reasonable and Prudent Operator shall mean such degree of diligence, prudence and foresight as aforesaid.

75. **“Redelivery Point”** or **“Redelivery Points”** is defined in the Operating Code.
76. **“Reduction Quantity”** in respect of a CT Agreement, shall mean the quantity that Transporter failed to schedule in a Day or failed to transport in the Day, up to the CT Redelivery Point Firm Daily Nominated Quantity or CT Redelivery MDQ, whichever is less.
77. **“Seller”** shall mean the entity with whom the Shipper has signed the GSA to purchase Gas for transmission under this Agreement.
78. **“Ship-or-Pay Quantity”** shall have the meaning assigned to the term in Clause 6.1.
79. **“Shipper Event of Default”** shall have the meaning assigned to the term in Clause 13.1(a).
80. **“Shortfall Quantity”** shall have the meaning assigned to the term in Clause 7.1.
81. **“Shipper’s Facilities”** means the entire facilities **‘As defined in Capacity Tranche Agreements’**.
82. **“Shipper LC”** shall mean the Letter of Credit provided by the Shipper in accordance with Clause 8.10 of this Agreement.
83. **“Specification”** shall mean the Gas quality specification as per Annexure – 2.
84. **“Standard Cubic Meter”** or **“SCM”** shall mean the quantity of Gas that occupies a volume of one (1) cubic meter at a temperature of fifteen decimal five six degrees Celsius (15°C) under an absolute pressure of one decimal zero one three two five bar (1.01325 Bar).
85. **“System Use Gas”** shall mean the quantity of gas used by the Transporter for the operation and maintenance of the pipeline system, including but not limited to compressors, gas heaters, close cycle vapour or thermo electric gas turbines for cathodic protection and supervisory control and data acquisition (SCADA).
86. **“Taxes”** shall mean all present and future taxes, levies, imposts, service tax, VAT, duties and fees of any nature whatsoever whether imposed directly or indirectly including by means of withholding by any authorised or empowered governmental, regional, local, municipal or state authority or body of the Government instrumentality, including all penalties, charges and interest relating to any of the foregoing, which arises directly on account of gas transmission. This shall include any change in Tax slabs/ rates due to modification in Taxation regime as may take place in any future date.
87. **“Third Party”** shall mean any Person other than the Transporter and the Shipper
88. **“Transmission Charges”** means the charges payable by the Shipper to the Transporter for Gas Transmission under this Agreement as determined in accordance with Clause 6 of this Agreement.

89. **“Transmission Loss”** means the quantity of gas which is unaccounted for whatsoever reason including blow downs, venting or releases during regular operation and maintenance of the pipeline system or due to inaccuracy of Custody Transfer Meters.
90. **“Transmission Rates”** shall mean the Transmission Rates set out in Annexure 1 or as otherwise specifically set out in an Exhibit in respect of a particular Capacity Tranche
91. **“Transporter Event of Default”** shall have the meaning assigned to the term in Clause 13.1(b).
92. **“Transporter Facilities”** shall mean all such pipelines and other equipment as may from time to time be necessary to receive gas from Shipper at the Delivery Point and to deliver the Gas required at the Redelivery Point.
93. **“Transmission Service(s)”** shall mean the service consisting of taking delivery of the gas made available by a Shipper at one or more entry points (Delivery Points) along the pipeline system and delivering an equivalent quantity of gas in terms of energy at one or more exit points (Redelivery Points) in accordance with the terms and conditions laid down in this agreement.
94. **“Transmission System”** shall mean the series of contiguous gas pipelines including from time to time, contiguous extensions thereof, which are under normal operating conditions hydraulically connected through a continuous Gas path, including all compressors, ancillary equipment, Gas measurement, analysis and other facilities incorporated in such contiguous gas pipelines and shall also include Transmission Facilities as may be extended or modified by the Transporter at Transporter’s sole discretion.
95. **“Termination Date”** shall have the meaning given to that term in Clause 5.1 of this Agreement.
96. **“Unauthorised Overrun Charge”** shall be calculated in accordance with Clause 6.2 (b) of this Agreement.
97. **“Unauthorised Overrun Quantity”** on any Day, shall mean the quantities above the Scheduled Quantity offtaken by the Shipper at a Redelivery Point and shall be determined in accordance with the provisions of the Operating Code
98. **“Unauthorized Overrun Rate”** shall mean the rate specified in Annexure 1 of this Agreement.
99. **“Unit of Measurement”** shall be MMBTU unless specified otherwise.
100. **“Week”** shall mean a period of seven (7) Days beginning at 0600 hours on a Monday and ending at 0600 hours on the following Monday.
101. **“Working Day”** shall mean any Day in a Week other than a Sunday or a day declared to be public holiday under the provisions of the Negotiable Instruments Act, 1881 by the Government of India.
102. **“Year”** shall mean a period of 365 consecutive Days; provided, however, that any such Year, which contains a date of 29 February, shall consist of 366 consecutive Days.

## 1.2 Interpretations and Construction

### In this Agreement:

- i. Unless the context otherwise requires, reference to the singular shall include a reference to the plural and vice-versa; and reference to any gender shall include a reference to other genders.
- ii. Unless the context otherwise requires, reference to any Clause/Clauses Appendix, Annexure, Exhibits or Attachment shall be to an Clause/Clauses Appendix, Annexure, Exhibits or Attachment of this Agreement.
- iii. The Appendices, Annexure, Exhibits, Attachment, Capacity Tranche Agreements, Operating Code, side letters (if any) etc. form an integral part of this Agreement. In the event of any conflict between any provision of the Clause and any provision of the Appendices, Annexure, Exhibits or Attachment the provision of **the Clause** shall prevail.
- iv. Reference to any law or regulation having the force of law includes a reference to that law or regulation, as from time to time amended, extended or re-enacted.
- v. Any reference to time shall, except where the context otherwise requires, be construed as a reference to the time in force in India. Any reference to calendar shall be construed as reference to the Gregorian calendar.
- vi. The headings of the Clause in this Agreement are inserted for convenience of reference only and shall not affect the meaning or interpretation of this Agreement.
- vii. The words “include” or “including” shall be deemed to be followed by “without limitation” or “but not limited to” whether or not they are followed by such phrases.
- viii. Unless the context otherwise requires, any period of time referred to shall be deemed to end at the end of the last date of such period.
- ix. This Agreement is made and executed in the English Language which shall be the governing text for all purposes.
- x. Any reference to MMBTU in this Agreement shall be based on the Gross Heating Value of the Gas unless otherwise specified. Calorific value of the gas shall be specified in the unit of kilo calorie per SCM or Kcal/SCM.
- xi. Words and abbreviations, which have, well known technical or trade/commercial meanings, are used in this Agreement in accordance with such meanings.
- xii. Any reference to a party includes that party’s successors and permitted assigns/nominees.
- xiii. A reference to a document includes an amendment or supplement to, or replacement or novation of, that document other than any amendment, supplement, replacement or novation made in breach of this Agreement.

- xiv. The words “agree” or “agreement” refer to an agreement in writing and “consent” means consent in writing.
- xv. A reference to Shipper or Transporter shall include their respective nominees.

## CLAUSE 2 – RIGHTS AND OBLIGATIONS

- 2.1 The Shipper and the Transporter shall in accordance with this Clause enter into one or more transactions in relation to one or more Redelivery Points whereby the Shipper shall contract for specified capacity for a specified duration for the transportation of the Gas through the Transporters facilities and the Transporter shall provide Gas Transmission Services for such duration in respect thereof. Each transaction shall be governed by the terms of this Agreement and by such other term that may be agreed in writing between Parties confirming such transaction i.e. CT.
- 2.2 In the event at any time the Shipper wishes to enter into a CT Agreement, then the Shipper may submit a proposal (“Proposal”) to the Transporter for the Transporter to provide Gas Transmission Services to the Shipper by entering into a Ship-or-Pay CT Agreement. Such proposal shall contain the details set out in Exhibit C. The Transporter shall respond to the Proposal within 3 Working Days confirming that spare capacity exists to satisfy the request and specifying the charges and terms and conditions upon which it will make the service available or advising that spare capacity is not available to satisfy the request or advising that further period of 7 days is required to respond as a detailed technical study is required or advising that it is not technically or operationally feasible to provide access. If and when the Transporter confirms to the Shipper that it accepts the Proposal, the Parties shall within a reasonable period of such confirmation execute a Ship-or-Pay CT Agreement.
- 2.3 The Transporter hereby agrees that from the relevant CT Start Date and in accordance with the terms and conditions of this Agreement it shall transmit Gas delivered by Shipper, up to the relevant CT Delivery Point MDQ, from the Delivery Point(s) till the Redelivery Point(s) for each CT agreed upon using the Transporter Facilities (the transmission of Gas by Shipper from the Delivery Point till the Redelivery Point is hereafter referred to as **“Gas Transmission”**). Gas Transmission shall, inter alia, consist of:
- i. Delivery of Gas by the Shipper at each Delivery Point of quantities of Gas up to the relevant CT Delivery Point MDQ and MDR;
  - ii. Transmission of a quantity of Gas up to the relevant CT Redelivery Point MDQ through the Transporter Facilities; and
  - iii. Making available for offtake at each Redelivery Point, quantity of Gas delivered by the Shipper at the Delivery Point limited up to the relevant CT Redelivery Point MDQ and the MOR.
- For avoidance of doubt, the Transporter shall not be obligated to redeliver Gas quantities greater than the quantities of Gas delivered by the Shipper at the Delivery Point.
- 2.4 Both the Parties shall act as a Reasonable and Prudent Operator in the performance of their respective obligations under this Agreement.
- 2.5 The Shipper hereby agrees that it shall pay the Transmission Charges and other charges, in accordance with the terms and conditions of this Agreement, Annexure and Exhibits hereunder in consideration of Transporter undertaking Gas Transmission hereunder. Further, the Shipper shall provide land and other utilities (free of cost) to Transporter

for installation, operation, maintenance and modification of Transporter's facilities at Redelivery Points.

- 2.6** Shipper's general capacity rights, and Transporter's general transmission obligations are set out in the main body of this Agreement and the specific rights and obligations in respect of any Capacity Tranche(s) are set out in the relevant Exhibit.
- 2.7** Transporter's obligations to undertake Gas Transmission in relation to any CT will be subject to:
- (i) The Shipper providing and maintaining the Shipper's LC in accordance with Clause 8.10 and the value of the Shipper's LC being changed to reflect the value of change in any CT Delivery Point MDQ, CT Redelivery Point MDQ and Transmission Rates from time to time;
  - (ii) Satisfaction of the conditions set out in such CT
- 2.8** The title of the Gas shall always be with the Shipper. All risks in and associated with the Gas from the time it is delivered by the Shipper to the Transporter at the Delivery point until redelivered by the Transporter at the Redelivery Point shall be borne by the Transporter.
- 2.9** In case Shipper delivers Off-spec Gas at Delivery point, Transporter shall have the right to refuse to accept the gas or accept the gas provided Shipper shall pay to Transporter a reasonable cost of service, as decided by Transporter, towards any efforts or any facilities or any treatment for cleaning of the gas or any integrity requirements of the pipeline and to upgrade gas to the Specification. Transporter shall also be authorised to charge to the Shipper reasonable cost of service, as decided by Transporter, towards capacity adjustment of the pipeline. Provided further that Transporter shall accept such Off-spec Gas only when it does not adversely affect the quality of Gas to be delivered to other existing customers at Redelivery Points. The shipper can't under any circumstance refuse to accept off- spec gas which has been delivered for transport at the delivery point of the Shipper itself.
- 2.10** In case Transporter delivers Off-spec Gas at Re-delivery point, Shipper shall have the right to refuse to accept the gas in which case the Transporter shall pay Liquidated Damages to the Shipper. However, in case the Shipper accepts such Off-spec Gas, the Transporter shall not be liable to pay any Liquidated Damages, other damages or any other charges to the Shipper.
- 2.11** In case any part of the Common Carrier capacity on a pipeline is available at any time due to non-existence of common carrier demand, then the same may be utilised either by Transporter itself or could be contracted to Shipper(s) for a period of one year (extendable by consequent agreement/s) subject to stipulation that such Common Carrier capacity, which has been contracted for a period of one year, shall be made available, within a period of thirty days, in the event of any requirement on Common

Carrier basis by another Shipper for transportation of gas. The shipper cannot raise any claim upon the transporter, in such case of withdrawal of excess capacity withdrawn upon notice of 30 days.



## **CLAUSE 3 – CONDITIONS PRECEDENT AND OPERATING CODE**

### **3.1 Conditions Precedent:**

The Parties agree that except the provisions of Clause 1, 3.1, 9, 12, 15 and 16, the rights and obligations pursuant to any CT and this Agreement shall not become effective and that neither Party shall have any duty, obligation or liability hereunder unless and until the conditions specified in Clause 3.1 have been satisfied or waived.

i) Condition Precedent required to be complied for effectiveness of Shipper's obligations under this Agreement to the extent of its obligations in relation to any CT:

(a) Conditions, if any, in relation to the relevant CT set out in Exhibit for such CT have been satisfied.

ii) Condition Precedent required to be complied for effectiveness of Transporter's obligations under this Agreement to the extent of its obligations in relation to any CT:

(a) Conditions, if any, in relation to the relevant CT set out in Exhibit have been satisfied.

**3.2** The Shipper and Transporter agree that they shall satisfy the Condition Precedent specified in Clauses relating to the effectiveness of their obligations under this Agreement within the Condition Precedent Satisfaction Date agreed in the CT Agreement.

Provided that:

i) The Shipper's obligations under this Agreement shall be conditional upon satisfaction of the conditions stipulated in Clauses above though the Shipper shall be entitled to waive the conditions stipulated in Clause 3.1.(ii) only.

ii) The Transporter's obligations under this Agreement shall be conditional upon satisfaction of the conditions stipulated in Clause above though the Transporter shall be entitled to waive the conditions stipulated in Clause 3.1.(i) only.

**3.3** Parties shall as soon as reasonably practicable inform the other Party of any fact or circumstance that either prevents or delays or may prevent or delay the satisfaction of any Conditions Precedent, after it becomes aware of such fact or circumstance. Not informing so within a reasonable period shall amount to suppression of material information.

**3.4** The Parties, promptly upon the satisfaction of the Conditions Precedent relating to the effectiveness of its obligations under this Agreement but not later than Condition Precedent Satisfaction Date agreed in the CT Agreement; give the other Party written notice that the Condition Precedent has been so satisfied.

**3.5** In the event that the Condition Precedent relating to the effectiveness of the Party's obligations under a CT Agreement is not satisfied (or waived) by the Condition Precedent Satisfaction Date agreed in the CT Agreement, either Party may, by written

intimation to the other Party, terminate such CT Agreement within a period of 15 days from such Condition Precedent Satisfaction Date without prejudice to any rights, claims or causes of action accrued prior to such termination. Provided however that the Parties shall instead of exercising their right to terminate, first mutually discuss and agree on alternative arrangements in this regard, like change of Condition Precedent Satisfaction Date, CT Start Date under the CT Agreement.

- 3.6** In the event both the parties failed to inform the satisfaction of condition precedent by the Condition Precedent Satisfaction Date, the agreement shall stand terminated with immediate effect and the Shipper's security if any shall be refunded alongwith interest in terms of clause 3.8 to the Shipper within 15 days of such termination.

**3.7 Operating Code:**

The provisions of the Operating Code- Exhibit D shall be applicable to the extent that the Operating Code expressly deals with certain provisions not contained herein. If the terms and conditions of this Agreement (including the Annexure and Exhibits attached hereto other than Operating Code) and the Operating Code are in conflict, the terms and conditions of this Agreement (including the Annexure and Exhibits attached hereto other than Operating Code) shall prevail.

**3.8 SHIPPER'S SECURITY/CONFIRMATION:**

- i. To ensure timely and appropriate performance of this Agreement, the Owner shall make a security deposit of Rs. \_\_\_\_\_ (Rupees \_\_\_\_\_ only) to the Transporter, at the time of signing of this Agreement or CT Agreement (as the case may be). The Owner shall also arrange to submit a bank guarantee; with validity exceeding the expected gas drawal Start Date by at least six months, for Rs. \_\_\_\_\_ (Rupees \_\_\_\_\_ only) from any of the nationalized/scheduled banks in favour of the Transporter, at the time of signing of this Agreement or CT Agreement (as the case may be) in IOCL's proforma ("Bank Guarantee").
- ii. The Transporter shall pay a simple interest at the rate of RBI Bank Rate minus 1% per annum (as applicable from time to time) to the Owner on the amount of security deposit upto the Start Date as per the provisions of relevant CT Agreement.
- iii. If the Owner does not commence drawal of gas by Start Date as mentioned in CT Agreement, the Transporter shall have the unrestricted right to terminate the Agreement and or forfeit the security deposit as well as encash the amount of Bank Guarantee.
- iv. Subject to any adjustments and/or forfeiture under Article 3.8(iii), and subject to Owner starting the gas drawal and furnishing the irrevocable L/C as stipulated in Article 8.10 and subject to Owner complying with other terms and conditions of this Agreement and or relevant CT Agreement, the Transporter shall, within two months after the Start Date, refund the security deposit, and also return the Bank Guarantee in case not forfeited/invoked.

- v. If the Transporter meets its GTA / CT Condition Precedents and Owner does not meet the same within the Condition Precedent Satisfaction Date agreed in the CT Agreement then Transporter shall forfeit the security deposit as well as encash the Bank Guarantee and terminate such CT Agreement.

## CLAUSE 4 – CAPACITY TRANCHES

### 4.1 Capacity Tranches:

- a) A **“Capacity Tranche”** or **“CT”** or **“CT Agreement”** or **“Booked Capacity”** shall be a quantity of transmission capacity reserved by Transporter for a particular transmission purpose of Shipper. Each CT Agreement shall be identified by a name, Delivery Point and Redelivery point and shall be documented in a separate Exhibit to this Agreement.
  - i. The **“Ship-or-Pay CT Agreement”** shall mean an arrangement under which subject to and in accordance with such CT Agreement, the Transporter shall reserve transmission capacity so as to provide Gas Transmission Services to Shipper on a firm basis.
- b) A **“Capacity Tranche Delivery Point MDQ”** or **“CT Delivery Point MDQ”** shall mean, in respect of a CT Agreement and relevant Delivery Point, the maximum quantity of Gas, in MMBTU, which, in respect of a Ship-or-Pay CT Agreement, the Transporter is obliged to accept from Shipper at that Delivery Point on a Day. The CT Delivery Point MDQ shall be set forth in the CT Agreement. It is clarified that the CT Delivery Point MDQ may not include balancing quantities.
- c) A **“Capacity Tranche Redelivery Point MDQ”** or **“CT Redelivery Point MDQ”** shall mean, in respect of a CT Agreement and the relevant Redelivery Point, the maximum quantity of Gas, in MMBTU, which the Transporter is obliged to make available to the Shipper at that Redelivery Point on a Day. The CT Redelivery Point MDQ shall be set forth in the CT Agreement.
- d) For any CT Agreement, the **“CT Start Date”** will be the Day on which the obligations relating to such CT comes into effect
- e) For any CT Agreement, the **“CT End Date”** will be the last Day on which the obligations relating to such CT Agreement is in effect.

- 4.2 On any Day the **“Contract MDQ”** shall be the sum of the Delivery Point MDQs for all Delivery Points on that Day.

## **CLAUSE 5 – TERM**

### **5.1 Duration of Agreement:**

- (a) The term of this Agreement shall commence on the date of its execution and shall continue till \_\_\_\_\_ (the **“Termination Date”**) subject to any earlier termination under Clause 13, Clause 11.9 or Clause 12.4 of this Agreement. The Parties agree that their rights and obligations under this Agreement (or relevant CT) shall come into force and effect subject to Clause 3.1 of the Agreement.
- (b) On the occurrence of the Termination Date, the Parties agree that neither Party shall have any rights and obligations under this Agreement (except for any rights, obligations, and rights of action or remedy, which has accrued in favour of either Party prior to the Termination Date) unless a CT Agreement in terms of this Agreement has been established.
- (c) Notwithstanding anything to the contrary herein, the provisions set forth under Clause 9 (Representations, Warranties and Covenants), Clause 11 (Force Majeure), Clause 14 (Liabilities and Indemnities), Clause 15 (Miscellaneous), and Clause 16 (Dispute Resolution), shall continue and survive any expiry or termination of this Agreement.
- (d) Notwithstanding the provisions of Clause 5.1(a), the Parties may at any time and from time to time by mutual agreement, extend the term of this Agreement and , such extended term shall in such a case be the term of this Agreement.

### **5.2 CT Start Date:**

The CT Start Date for any CT shall be specifically provided in the relevant Exhibit for such CT.

### **5.3 Obligations upon Start Date:**

- (a) Either Party’s obligations under this Agreement shall be conditional upon satisfaction of (i) Conditions Precedent to this Agreement and (ii) conditions prescribed for each CT Agreement.
- (b) The relevant date for commencement of delivery of Gas at the Delivery Point and offtake of Gas at the Redelivery Point and liability for Transmission Charges, Shortfall Quantities and any Liquidated Damages under this Agreement shall be the relevant CT Start Date under this Agreement.
- (c) If on the CT Start Date and thereafter on any such Day, Transporter is able to take deliveries of the Gas quantities up to the CT Delivery Point MDQ at the Delivery point and allow the off-take of Gas quantities up to the CT Redelivery Point MDQ at the Redelivery Point and the Shipper is unable to deliver Gas to the Transporter at the Delivery Point and/ or has not commenced off-takes of Gas at such Redelivery Points then the Shipper shall still be required to pay the applicable Transmission Charges.

- (d) If on the CT Start Date and thereafter on any such Day, Shipper is able to make deliveries of the Gas quantities up to the CT Delivery Point MDQ at the Delivery Point and off-take Gas quantities up to the CT Redelivery Point MDQ at the Redelivery Point and the Transporter is unable to accept delivery of such Gas at the Delivery Point or deliver such Gas to the Redelivery Point then Clauses 7.2 and 7.3 shall apply.

## CLAUSE 6 – TRANSMISSION CHARGES

Commencing from each CT Start Date and till CT End Date, the Shipper shall pay, with respect to each CT, Transmission Charges in accordance to each CT. The Transmission Charges shall be arrived in the following manner:

### 6.1 Transmission Charges

#### 6.1.1 For Ship-or-Pay CT Agreement

(a) In respect of any Ship-or-Pay CT Agreement, commencing from the relevant CT Start Date during the CT Period, the Shipper shall pay to the Transporter Transmission Charges in accordance with the relevant Ship-or-Pay CT Agreement.

(i) The Transmission Charges in respect of any Ship-or-Pay CT Agreement shall be arrived at in the following manner:

(A) The Shipper shall pay Transmission Charges every Fortnight in accordance with the provisions of this Clause 6.1.1.

(B) The Transmission Charges for a Fortnight or for the period less than a fortnight (in case of CT Agreement period is less than a fortnight) shall be the sum of the Transmission Charges payable in respect of each Day in the Fortnight subject to and in accordance with the terms of the relevant CT Agreement.

(C) The Transmission Charges in respect of a Day shall be the product of the Allocated Quantity at the Redelivery Point, on that Day and the Transmission Rates.

(ii) If, in respect of a Ship-or-Pay CT Agreement, the aggregate of the Allocated Quantity at the Redelivery Point in a calendar Month is less than 90% of Monthly Ship-or-Pay Quantity then the Shipper shall pay to the Transporter an amount equal to such difference multiplied by the Transmission Rates (**“Monthly Ship-or-Pay Payment”**).

(iii) The **“Monthly Ship-or-Pay Quantity”** in respect of a Ship-or-Pay CT Agreement shall be arrived at as follows:

(A) the summation of CT Redelivery Point MDQ (as may be reduced by Planned Works) on each Day in the relevant Month; minus

(B) the product of CT Redelivery Point MDQ and the Days on which the Transporter is unable to provide Gas Transmission Services due to Force Majeure (including Force Majeure affecting Transporter’s Facilities) or Days on which Shipper is unable to tender Gas at the Delivery Point for transportation hereunder or offtake Gas at the Redelivery Point due to Force Majeure (including Force Majeure affecting Shipper’s Facilities) in the relevant Month. To the extent that Force Majeure partially affects the ability of either Party to transport, tender or offtake Gas, as

applicable, at the CT Redelivery Point MDQ level, the adjustment hereunder shall be proportionately reduced; minus

(C) the product of CT Redelivery Point MDQ and Days affected due to Planned Works, Emergency, Constraints and Interruptions in accordance with the provisions of the Operating Code in the relevant Month; minus

(D) the sum of Reduction Quantities **but excluding** the adjustments under sub-clauses (b) and (c) above and quantities not transported by the Transporter on account of Shipper's non compliance with the terms of the CT Agreement or Transporter's exercise of suspension rights under the CT Agreement; minus

(E) any quantity of Off-spec Gas rejected by Shipper unless such Off-spec Gas has been delivered by Shipper at the relevant CT Delivery Point in the relevant Month.

**(iv) Annual Reconciliation of Ship or Pay Quantity :**

**(A)** Ship or Pay paid by the Shipper on monthly basis as per clause 6.1.1(a)(ii) shall be reconciled on annual basis.

**(B)** If, in respect of a Ship-or-Pay CT Agreement, the aggregate of the "Allocated Quantity" at the Redelivery Point in a Contract Year is less than 90% of sum of Monthly Ship-or-Pay Quantity in that Contract Year then the Shipper shall pay to the Transporter an amount equal to such difference multiplied by the Transmission Rates (**"Annual Ship-or-Pay Payment"**).

**(C)** Based on Annual reconciliation of Ship or Pay (SoP) in case of refund of SoP charges to the Shipper:

1. The amount to be paid/refunded by Transporter to the Shipper will be adjusted in subsequent fortnightly invoices of the existing CT, or
2. If the respective CT agreement has expired, then the amount shall be adjusted in the subsequent invoices to be raised under the new CT agreement within the same GTA/ new GTA, or
3. If the GTA is expired, then the amount shall be refunded to the Shipper, as the case may be

(v) In case, the CT Agreement is for a period less than a Year then Ship or Pay shall be worked out based on number of days in the relevant CT.



6.1.2 **This clause has been omitted intentionally**

6.1.3 Shipper shall also be liable to pay the spur line charges (if not included in Transmission Rate) as detailed in Annexure – 1 of this Agreement or respective CT Agreement. In case the applicable spur line charges are on Fixed Monthly basis, the same shall be applicable from the start date of the first CT for any Redelivery Point and shall remain applicable throughout the term of this agreement irrespective of the volume of gas drawn or any CT being in effect for the relevant Redelivery Point.

6.1.4 Transmission Rates are subject to change as per the directives from Governmental Instrumentality and the same shall be payable by the Shipper as applicable.

6.1.5 Transmission Rates shall include provisions for System Use Gas (SUG), Line Pack (LP) and Transmission Losses (TL) relevant to the pipeline as per the standard operating practices. Shipper shall sell or provide gas, if required by the Transporter, for SUG, LP & TL at the prevailing market price in proportion to its capacity booking in the pipeline, provided that, the Transporter shall be free to arrange this gas from any other source.

**6.2 Overrun Charges:**

**(a) Authorized Overrun Charges**

- (i) The Authorised Overrun Charges payable for a Fortnight shall equal the sum of the Authorised Overrun Charges payable in respect of each Day in the Fortnight.
- (ii) The Authorised Overrun Charge payable in respect of a Redelivery Point on a Day shall be the product of the Authorised Overrun Quantity and the Authorised Overrun Rate (as detailed in the Annexure-1) for that CT Redelivery Point on that Day.

**(b) Unauthorized Overrun Charges**

- (i) The Unauthorized Overrun Charges payable for a Fortnight shall be equal the sum of the Unauthorized Overrun Charges payable in respect of each Day in the Fortnight.
- (ii) The Unauthorised Overrun Charge payable in respect of a Redelivery Point on a Day shall be the product of Unauthorised Overrun Quantity for that CT Redelivery Point on that Day and Unauthorised Overrun Rate (as detailed in the Annexure-1).

### **6.3 Imbalance Charges:**

#### **(a) Positive Imbalance Charges:**

- (i) The Positive Imbalance Charges payable for a Fortnight shall equal the sum of the Positive Imbalance Charges payable in respect of each Day in the Fortnight.
- (ii) The Positive Imbalance Charge payable in respect of a Day shall be the product of the Cumulative Positive Imbalance Quantity for the Day and the applicable Positive Imbalance Rate (as detailed in the Annexure-1) for that CT.

#### **(b) Negative Imbalance Charges:**

- (i) The Negative Imbalance Charges payable for a Fortnight shall equal the sum of the Negative Imbalance Charges payable in respect of each Day in the Fortnight.
- (ii) The Negative Imbalance Charge payable in respect of a Day shall be the product of the Cumulative Negative Imbalance Quantity for the Day and the applicable Negative Imbalance Rate (as detailed in the Annexure - 1) for that CT.

**6.4** Transmission Charges are exclusive of Taxes. Shipper shall reimburse to the Transporter the amount of any Taxes leviable for providing the Transmission Services and/or paid in respect of any service provided by Transporter under this Agreement as per the prevalent rates at any time in the future. Shipper shall be responsible for payment of any penalties which may be imposed on Transporter for Transporter's failure to pay Taxes when due, resulting from Shippers failure to reimburse any Taxes validly invoiced on the due date.

## CLAUSE 7 – LIQUIDATED DAMAGES

### 7.1 Shortfall Quantities:

In respect of each Ship-or-Pay CT Agreement if on a Day, for reasons other than any failure of the Shipper to deliver Gas at the Delivery Point (while the Transporter is in compliance with the CT Agreement), or any failure of the Shipper to offtake Gas at the Redelivery Point (while Transporter is in compliance with the CT Agreement):

- (a) the Transporter fails to schedule the Firm Daily Nominated Quantities (FDNQ) such that the Scheduled Quantity at the Redelivery Point is less than the Firm Daily Nominated Quantity (FDNQ); or
- (b) the Transporter fails to provide the Gas Transmission Services for the Scheduled Quantity, or
- (c) the Shipper rejects Gas that Transporter delivers at the Redelivery Point that fails to conform to the Specifications (unless the failure to meet Specification at the Redelivery Point is due to Shipper's delivery of Gas at the Delivery Point that did not meet Specification unless accepted by Transporter in accordance with the Operating Code),

then the **"Shortfall Quantity"** in respect of any Month or for any period of CT Agreement in case the Period of CT Agreement is less than a Month (as the case may be) shall be determined as below:

- (i) 80% of the lower of:
  - a. the aggregate FDNQ for the Redelivery Point as reduced by quantities not transported on account of Force Majeure or Planned Works or in circumstances where the Transporter is expressly excused pursuant to the Operating Code or as a result of Shipper's breach of its obligations under the CT Agreement; or
  - b. the aggregate of the CT Redelivery Point MDQ as reduced by quantities not transported as a consequence of reductions from the MDQ on account of Force Majeure or Planned Works or in circumstances where the Transporter is expressly excused pursuant to the Operating Code or as a result of Shipper's breach of its obligations under the CT Agreement,for the relevant Month; minus
- (ii) aggregate of the Shipper's Allocated Quantity at that Redelivery Point for the relevant Month.

### 7.2 Liquidated Damages:

(a) In respect of a Month where there is a positive Shortfall Quantity, Transporter shall be obligated to pay "Liquidated Damages" or "LD" in accordance with this Clause 7.2.

(b) The LD shall be equal to the product of the Shortfall Quantity in the relevant Month and the 50% of Transmission Rates of the relevant CT Agreement.

(c) The Transporter shall give equivalent credit to the Shipper for Liquidated Damages in the subsequent Fortnightly Invoice. In case the value of a Fortnightly Invoice is less than the Liquidated Damages due then any Liquidated Damages on which credit cannot be provided shall be carried forward to the next Fortnightly Invoice and shall be adjusted against the payments for Transmission Charges in subsequent Fortnightly Invoices. Further, if such carry over and adjustment is not possible on account of expiry or termination of the CT Agreement, such dues shall be paid forthwith by the Transporter to the Shipper. The said carried forward adjustments may be set off/ adjusted in subsequent CT agreements upon mutual agreement of parties.

**7.3** The Parties agree that the Liquidated Damages specified in this Clause 7 constitute genuine and reasonable pre-estimates of losses which the Shipper shall incur as a result of Transporter's failure to fulfill its obligations to provide Gas Transmission Services under any Ship-or-Pay CT Agreement. In the event of any breach by the Transporter of its obligations under the CT Agreement, Liquidated Damages payable under Clause 7.2 shall be the sole remedy of the Shipper and shall, save in respect of Wilful Misconduct, be in full satisfaction of any right which the Shipper might otherwise have against the Transporter for damages under the Ship-or-Pay CT Agreement or at law for the failure of the Transporter, subject to Clause 7.7 in respect of any failure of Transporter to redeliver Gas delivered to Transporter by Shipper. No such liability shall accrue upon the transporter in the event that reasonable care was taken as a prudent operator to prevent or mitigate such losses/ breach or such breach occurring due to unavoidable/ extraneous circumstances.

**7.4** Notwithstanding the foregoing, the total aggregate liability of Transporter for Liquidated Damages payable by the Transporter in any Contract Year in respect of any Ship-or-Pay CT Agreement shall not exceed 50% of the Transmission Rate multiplied by the relevant CT Redelivery Point MDQ and the number of Days in the relevant Contract Year.

**7.5 Imbalance Caused by Transporter:**

- (a) Notwithstanding the foregoing, any Imbalance Quantity on a Day caused by Transporter's failure to redeliver at the relevant Redelivery Point quantities of Gas properly tendered by Shipper at the relevant Delivery Point or to receive at the relevant Delivery Point quantities of Gas properly offtaken by Shipper at the relevant Redelivery Point shall not be the subject of Authorised Overrun Charges and Imbalance Charges. Any Cumulative Imbalance of Shipper resulting from such failure of Transporter shall not trigger the rights of Transporter to adjust Shipper's relevant Delivery Point Scheduled Quantities or relevant Redelivery Point Scheduled Quantities each as defined and in accordance with the Operating Code. The transporter shall be exempt from any liability in whatsoever manner for indemnifying for any such imbalance caused by conditions beyond its control or the ones which the transporter reasonably attempted to mitigate, on any given day.
- (b) Nothing in this Agreement shall limit the right of the Shipper to receive redelivery of any Positive Imbalance Quantity caused by Transporter's failure to redeliver at the relevant Redelivery Point, the quantities of Gas tendered by Shipper at the relevant Delivery Point.

- (c) Nothing in this Agreement shall limit the right of the Transporter to receive delivery of Gas for any Negative Imbalance Quantity caused by Shipper's failure to deliver at the Delivery Point or offtake Gas at the Redelivery Point.

**7.6** The Parties agree that the LD specified in this Clause 7 constitutes genuine and reasonable pre estimates of losses, which the Shipper shall incur because of financial commitments committed by the Shipper under its various contracts with its gas supplier or any other party. In the event of any breach by the Transporter of its obligations under this Agreement, LDs payable in terms of Clause 7.3 shall be the sole remedy of the Shipper and shall be in full satisfaction of any right which the Shipper might otherwise have against the Transporter for damages (including, without limitation, damages for consequential loss) under this Agreement or at law for the failure of the Transporter., the liability of Transporter under this agreement in any Rate multiplied by the relevant CT Redelivery Point MDQ and the number of Days in the relevant Contract Year for the respective CT.

### **7.7 Cap on Liability for Failure to Meet Specifications**

The Parties agree that the aggregate liability of the Shipper or Transporter for failure to tender Gas which conforms to the Specifications in any Contract Year in respect of a CT Agreement shall not exceed the Transmission Rate multiplied by the relevant CT Redelivery Point MDQ multiplied by the number of Days in the applicable Contract Year multiplied by 0.2.

## CLAUSE 8 – BILLING AND PAYMENT

- 8.1** Transporter shall deliver electronically to the Shipper or such authorized representative/officer on its behalf, as soon as possible following the end of each Fortnight, from the Fortnight in which the Start Date falls, an invoice for such Fortnight setting forth the amount to be paid by the Shipper to the Transporter in respect of such Fortnight (a **“Fortnightly Invoice”**), which amount shall be the sum total of the following:
- (a) An amount equal to the Transmission Charge for such Fortnight showing details of the calculation; plus
  - (b) an amount equal to the Authorised Overrun Charges for such Fortnight showing details of the calculation; plus
  - (c) an amount equal to the Unauthorised Overrun Charges for such Fortnight showing details of the calculation; plus
  - (d) an amount equal to Positive Imbalance Charges for such Fortnight showing details of the calculation; plus
  - (e) an amount equal to the Negative Imbalance Charges for such Fortnight showing details of such calculation; minus
  - (f) an amount equal to applicable Liquidated Damages determined in accordance with Clause 7.2; plus
  - (g) an amount equal to applicable Ship-or-Pay Payment determined in accordance with Clause 6.1.1; plus;
  - (h) Taxes due and payable by the Shipper in accordance with Clause 6.4 of this Agreement plus or minus (as the circumstances may require)
  - (i) Interest accrued and unpaid by either Party on delayed payments.
  - (j) any other amount due and payable by the Shipper or the Transporter in accordance with this Agreement or as a result of any correction to any prior fortnightly invoice, showing details of the calculation.
  - (k) Notwithstanding the above, Transporter may raise its claim towards transmission charges through demand/claim letter from time to time as and when the need arise.
- 8.2** Each Fortnightly Invoice delivered by the Transporter in accordance with Clause 8.1 shall also include for each Day in the preceding Fortnight and for each Point to the extent possible, the following information and indicating clearly where any items are estimated:
- (a) the CT Delivery Point MDQ for each CT for each Day during the Fortnight;
  - (b) the CT Redelivery Point MDQ for each CT for each Day during the Fortnight;

- (c) the Scheduled Quantity at the Delivery Point for each CT for each Day during the Fortnight;
- (d) the Scheduled Quantity at the Redelivery Point for each CT for each Day during the Fortnight;
- (e) the Allocated Quantity at the Delivery Point for each CT for each Day during the Fortnight;
- (f) the Allocated Quantity at the Redelivery Point for each CT for each Day during the Fortnight;
- (g) the opening balance and the closing balance of the Cumulative Imbalance for the Fortnight
- (h) the opening balance and the closing balance of the Planned Works undertaken by the Shipper and the Transporter under each CT during the Fortnight
- (i) the Authorized Overrun Quantity, as applicable
- (j) the Unauthorized Overrun Quantity, as applicable
- (k) the Positive Imbalance Quantity for the day and cumulative imbalance, as applicable
- (l) the Negative Imbalance Quantity for the day and cumulative imbalance, as applicable

Proper and regular records/ logs must be maintained so as to derive the aforesaid referred points/ information forming a part of the fortnightly invoice/s. These logs/ records may also be derived/ based on the custody transfer meter for purposes of reconnaissance by the representatives/ officers of the parties as duly authorized in this behalf, so as to prevent any dispute and resultant delay in clearance of payments from Shipper to the Transporter. This shall be done in line with clauses 8 and 9 of the Operating Code.

**8.3** Shipper shall pay to the Transporter the amount of any Taxes, which are chargeable and can be levied, at present and in future, in respect of transmission of Gas by the Transporter under the Agreement.

**8.4 Payment Arrangements:**

- (a) Subject to Clause 8.6 (a), within three (3) Working Days or four (4) Working Days (in case of payment through e-payment), as the case may be, of the date of receipt of the Fortnightly Invoice, the **“Due Date”**, Shipper shall pay to the Transporter the amounts in full as set out in such Fortnightly Invoice.
- (b) If, in respect of any Fortnight, Transporter does not receive the Allocation Data in respect of the previous Fortnight then Transporter shall prepare a Fortnightly Invoice based on estimates taking in account the details of recent data for previous months or from such information as it has at its disposal and Shipper shall pay to Transporter the sum set out in such Fortnightly Invoice.

- (c) A Fortnightly Invoice prepared in accordance with Clause 8.4 (b) shall be verified against the Allocation Data when it is received by the Transporter. Any difference between the sums payable as calculated in accordance with Clause 8.4 (b) and the sums payable after verification in accordance with this Clause 8.4(c) shall be included as an adjusted item in the next following Fortnightly Invoice.
- (d) If an error is discovered in any Fortnightly Invoice rendered by the Transporter to Shipper, then the error shall be corrected by an adjustment item in the next or next but one Fortnightly Invoice.

## 8.5 Disputes:

- (a) If the Shipper disputes in good faith all or part of any amount included in any Fortnightly Invoice submitted pursuant to Clause 8.1 (such amount is hereafter referred to as the **“Disputed Amount”**), the Shipper shall provide to the Transporter, within 14 (fourteen) days following issuance of the Fortnightly Invoice by the Transporter showing such Disputed Amount, realistic and reasonable written estimate, fully broken down and explained in details in writing of the amount that should, in the reasonable opinion of the Shipper, be payable by the Shipper to the Transporter in respect of such Fortnight;
- (b) Notwithstanding Clause 8.5.(a) and 8.4 (d) above, if a Party does not question or dispute an invoice issued hereunder within fourteen (14) Days of receiving it, such invoice shall be deemed to be correct, complete, conclusive and finally accepted by such Party except where such Party could not have reasonably identified any error or omission in the said invoice, taking into account the information then available to it during such fourteen (14) Day period.
- (c) Any correction in the quantities resulting from the resolution of dispute shall be guided by the Section 9.11 (c) of the Operating Code.

## 8.6 Payments and Payments on resolution of disputes

- (a) The Shipper shall pay all amounts shown as payable in such Fortnightly Invoice, on or before the date that payment of such amount is due in accordance with Clause 8.1;
- (b) The Parties shall use reasonable endeavours to resolve such dispute within a period of 15 (fifteen) Days following receipt by the Transporter of such details from the Shipper;
- (c) Within seven (7) days of the dispute being resolved a correcting payment in respect of the disputed Fortnightly Invoice shall be made by one Party to the other. The correcting payment shall be for the difference between the amount agreed or determined to be due and payable and the amount actually paid in accordance with Clause 8.6 (a) and shall include Interest.

## 8.7 Failure to Pay:

- (a) If the Shipper fails to pay some or all of an amount identified for payment in accordance with Clause 8.4, 8.6(a) or 8.6(c), then the Transporter shall be entitled



to call upon the Letter of Credit in respect of such payable amount including any Interest accrued following the Day identified in Clause 8.4, 8.6(a) and 8.6(c) respectively.

- (b) If, after taking account of any payment the Transporter receives through the Letter of Credit or otherwise, there is still an outstanding balance in respect of the payment that is due from the Shipper, then the Shipper shall also pay Interest on such amount. The Transporter may issue a Default Notice in accordance with the provisions of this Agreement.

#### **8.8 Right of Set Off:**

If a Party does not pay any amounts due under this Agreement to the other Party by the Due Date, then such other Party may, without prejudice to any other rights or remedies it may have, withhold and set off such amount against any amounts due or owing by it under this Agreement to the non-paying Party, subject to non-paying Party being liable to Interest from the relevant due date.

#### **8.9 Payments:**

All payments by the Shipper under this Agreement shall be made in Rupees, by electronic funds transfer in designated bank accounts in SBI/HDFC/ICICI bank and shall be deemed received on the date on which any such payment is actually credited to the account so designated by the Party receiving such payment.

#### **8.10 Letter of Credit from the Shipper:**

- (a) At all times during the period from the relevant CT Start Date until termination of this CT and for each CT, as support for the Shipper's payment obligations under this Agreement, the Shipper shall cause a bank acceptable to the Transporter to issue, establish and maintain in favour of the Transporter and in a form acceptable to the Transporter on demand, unconditional, revolving, standby irrevocable Letter of Credit (a "**Shipper LC**") of an amount, determined in any Contract Year by reference to the first Day of such Contract Year, equivalent in aggregate to Rupees 16 multiplied by the CT Redelivery Point MDQ multiplied by the Transmission Rate [and 16 days Spur Line charge] plus Fixed Monthly Spur Line charges for each CT. Provided further, Shipper LC shall provide coverage of the value of 3 (Three) Fortnight Transmission charges in a Contract Year.
- (b) The amount under 8.10 (a) shall be adjusted to reflect any increase in the CT Redelivery Point MDQ for any CT during the Contract Year. The amount under the Shipper LC shall be increased at least 15 Days prior to the Date when such increase in CT Redelivery Point MDQ is to come into effect.
- (c) Such Shipper LC shall be provided not later than 15 (fifteen) Days prior to the CT Start Date of the earliest CT. All charges, fees, costs and expenses related to Shipper LC shall be paid by the Shipper. Shipper LC shall, unless replaced or renewed by a date at least thirty (30) Days prior to termination with another Shipper LC meeting the requirements of this Clause, be terminated only on the expiry/termination of this Agreement and after the Shipper has settled any outstanding amounts payable to the Transporter under this Agreement. If such

Shipper LC is not replaced or renewed by a date at least thirty (30) Days prior to its expiry or termination then the same shall constitute a Shipper Event of Default.

- (d) The Shipper agrees that, following any failure by the Shipper to pay when due any amounts payable to the Transporter and duly invoiced in accordance with this Clause 8, the Transporter shall be entitled to make a drawing or request for payment under the Shipper LC, in an amount equal in aggregate to the sums which are so due and payable to the Transporter.
- (e) Within three (3) Working Days of a drawing by the Transporter under the Shipper LC, the Shipper shall cause the Shipper LC to be replaced or replenished to the full aggregate amount referred to in this Clause until all dues under this Clause has been paid until the Termination Date.
- (f) The Shipper acknowledges that the Transporter may transfer or assign the Shipper LC, for the benefit of Lenders of the Transporter or the Transporter's permitted successors and permitted assignees/ nominees.

**8.11** Debit/credit notes may be raised for interest or any other dues accrued and unpaid by either Party.

**8.12 Claims Statement:**

- (a) In respect any amount which is due as payments for Imbalance Quantities under Clause 6.3, Ship or Pay under Clause 6.1.1(a)(iv), Liquidated Damages under Clause 7.2, liability for failure to meet Specification under Clause 7.7, or any indemnity claims under Clause 14 but which is not an invoiced amount pursuant to Clause 8.1, the Party to whom such amount is owed may serve on the other Party a written statement specifying the sums owed in satisfaction of the claim, including the details in support of such claim (the "**Claims Statement**"). Such sums which shall be the subject to this Clause 8.12 may include amounts due but which have not been invoiced under a CT Agreement.
- (b) The Party receiving a Claims Statement shall pay any such sums if relating to Imbalance Quantities under Clause 6.3 as specified in the Claims Statement which are due and payable under the relevant CT Agreements within 4 (four) Working Days after the amount of the owing Party's liability to the other has been fully ascertained in accordance with the relevant CT Agreements. If the owing Party fails to make a payment to the other Party within such period of 4 (four) Working Days, such overdue payment shall bear Interest from the expiry of the 4 (four) Working Day period until the date upon which payment is made.
- (c) The Party receiving a Claims Statement shall pay any such sums if relating to Liquidated Damages under Clause 7.2 or liability to meet specification under Clause 7.6 as specified in the Claims Statement which are due and payable under the relevant CT Agreement within 20 Working Days after the amount of the owing Party's liability to the other has been fully ascertained in accordance with the relevant CT Agreement. If the owing Party fails to make a payment to the other Party within such period of 20 Working Days, such overdue payment shall bear Interest from the expiry of the 20 Working Day period until the date upon which payment is made.

- (d) The Party receiving a Claims Statement shall pay any sums relating to indemnity claims under Clause 14 as specified in the Claims Statement which are due and payable under the relevant CT Agreement within a reasonable period of time after the amount of the owing Party's liability to the other has been fully ascertained in accordance with the relevant CT Agreement.

## **CLAUSE 9 – REPRESENTATIONS, WARRANTIES AND COVENANTS**

### **9.1 Representations:**

Each Party represents and warrants to the other (which representations and warranties shall survive the execution and delivery of this Agreement) that:

- (a) it is a company duly organized and validly existing under the laws of India and has all requisite legal power and authority and corporate authorisations at the shareholder and board level to execute this Agreement and carry out the terms, conditions and provisions hereof;
- (b) unless as may be agreed to between the Parties in writing, it has in full force and effect all requisite clearances, approvals and permits necessary to enter into this Agreement and perform its obligations hereof
- (c) this Agreement and the transactions and obligations hereof do not contravene its constitutional documents or any law, regulation or government directive and will not contravene any provisions of, or constitute a default under, any other agreement or instrument to which it is a party or by which it or its property may be bound or any of its obligations or undertakings by which it or any of its assets are bound or cause a limitation on its powers or cause it to exceed its authorised powers;
- (d) there is no pending or threatened actions, suits or proceedings which are likely to adversely affect it or its affiliates or any of their respective assets before a court, governmental agency, commission or arbitrator or administrative tribunal regarding its ability to perform its obligations under this Agreement; and neither it nor any of its affiliates have immunity from the jurisdiction of a court or from legal process (whether through service of notice, attachment prior to judgement, attachment in aid of execution, execution or otherwise).
- (e) it confirms that all its representations and warranties set forth in this Agreement are true, complete and correct in all respects at the time as of which such representations and warranties were made or deemed made.
- (f) it has informed the other Party of all the material aspects and events which are likely to have any adverse impact on the performance of the contractual obligations.

**9.2** Transporter and Shipper agree that Transporter shall have or receive no title to any of the Gas supplied or made available for delivery by Shipper at the Delivery Point, which would be transmitted by Transporter to the Redelivery Point through the Transporter Facilities.

**9.3** The Shipper warrants that it shall have full title to all Gas tendered for delivery to the Transporter Facilities at any Delivery Point and that Gas so tendered at any Delivery Point will be free from all encumbrances, liens, charges, security interests (except to the extent required by Shipper's Lenders) and adverse claims of any description, including any claim by a Third Party with respect to the ownership of Gas delivered by Shipper to the Transporter which is established by injunction or other order of the Indian courts or other tribunal of competent jurisdiction. Transporter warrants that in relation to the Gas

so tendered for redelivery at Redelivery Point, the Transporter shall not have any lien, charges, security interest and other encumbrances.

- 9.4** Subject to and in accordance with the terms of this agreement, the Transporter represents and warrants to the Shipper that it shall be the owner or operator in respect of the Transporter Facilities and that it shall have the requisite infrastructure, facilities and manpower to perform its obligations under the Agreement and shall maintain its adequacy during the period of the Agreement.
- 9.5** Further, subject to and in accordance with the terms of this agreement, as of the Start Date, the Shipper represents and warrants to the Transporter that it or its Affiliates shall have the legal and beneficial title and interest in the Shipper's facilities and that it shall have the requisite infrastructure, facilities and manpower to perform its obligations under the Agreement and shall maintain its adequacy during the period of the Agreement.
- 9.6** The Parties represents that entering into this Agreement by the Parties shall not create any right, title, interest or claim (either beneficial or otherwise) in respect of any of the Party's Facilities.

## **CLAUSE 10 – PLANNED WORKS**

- 10.1** “Planned Works” shall mean works conducted over a period of hours or days identified in advance (i) on the Transporter Facilities by the Transporter, which may temporarily restrict the Transporter Facilities capacity (including any Third Party Pipeline) and shall include modifications to, enlargement of, repairs to or maintenance of the Transporter Facilities; and (ii) upstream and/or downstream of Transporter Facilities which results in Shipper having a reduced requirement for capacity. (iii) on the Shipper Facilities by the Shipper, which may temporarily restrict the Shipper Facilities capacity and shall include modifications to, enlargement of, repairs to or maintenance of the Shipper Facilities; and (iv) upstream and/or downstream of Shipper Facilities which results in Shipper having a reduced or non - requirement for capacity.
- 10.2** Both Parties shall have the right, without any liability to the other Party, to temporarily reduce the CT Delivery Point MDQ and the relevant CT Redelivery Point MDQ for any CT during Planned Works.
- 10.3** The representatives of the Parties shall, with respect to first Contract Year within 30 Days of the first CT Start Date and for any other Year by 30<sup>th</sup> Day of November, meet and discuss in good faith Planned Works requirements for immediately following Contract Year with a view to reaching an agreement in writing between the Parties as to the timing and duration of any Planned Works periods for the immediately following Contract Year.
- 10.4** Both Parties shall use reasonable endeavors to co-ordinate Planned Works with the maintenance of other facilities downstream and upstream of the other Party’s Facilities.
- 10.5** In the event of any change in the Planned Works agreed in accordance with the Clause 10.3, concerned Party shall give not less than thirty (30) Days notice of the Days on which it shall carry out any such Planned Works. Such Planned Works may be rescheduled provided if it is necessary for the concerned Party acting as a Reasonable and Prudent Operator to reschedule the Planned Works to enable the concerned Party to operate its facilities in a safe and efficient manner.
- 10.6** Thirty (30) days prior to the Planned Works, concerned Party shall by notice inform the other Party of reduced CT Delivery Point MDQs and CT Redelivery Point MDQs while the Planned Works are in progress.
- 10.7** Transporter shall carry out any Planned Works in an expeditious manner with minimal interruption to transmission of Gas between Delivery and Redelivery Points.
- 10.8** In any Contract Year, the Transporter shall be entitled, for not more than three (3) times a Contract Year, to reduce each CT Delivery Point MDQ and the corresponding CT Redelivery Point MDQ over one or more Days for the purpose of carrying out Planned Works, by an aggregate amount equivalent to 10 Days relevant CT Delivery Point MDQ. Such instances of reduction may be extended beyond 3 times in a year, upon mutual agreement between the parties.
- 10.9** For the avoidance of doubt, on Days affected by Planned Works the reduced CT Delivery Point MDQ and the corresponding CT Redelivery Point MDQ shall be used for the purposes of other Clauses including Clauses 6 and 7.

**10.10** In any Contract Year, the Shipper shall be entitled by giving a notice of not less than 30 (thirty) days, for not more than three (3) times in a Contract Year, to reduce each CT Delivery Point MDQ and the corresponding CT Redelivery Point MDQ over one or more Days for the purpose of carrying out Planned Works, by an aggregate amount equivalent to 10 days for relevant CT Delivery Point MDQ.

## CLAUSE 11 – FORCE MAJEURE

### 11.1 Definition:

No failure, delay or omission by either Party to fulfill any of its obligations under this Agreement (other than the obligation to make payments when due) shall give rise to any claim against such Party (Affected Party) or deemed to be a breach of such Agreement if, and to the extent, such failure, delay or omission arises from any of the following events not within the reasonable control of such Party, (Force Majeure Event) and which affects the ability of such Party to fulfill all or any of its obligations under the Agreement in spite of the Party having acted as a Reasonable and Prudent Operator.

### 11.2 Force Majeure Events:

Without prejudice to the generality of the foregoing definition in Clause 11.1 the following events arising in the Shipper Facilities affecting the Shipper's ability to deliver Gas at any of the Delivery Points and in the Transmission System preventing the Transporter to receive, transmit and redeliver Gas shall and events related to Shipper's/Buyer's facilities constitute Force Majeure under this Agreement.

- (a) Fire, flood, atmospheric disturbance, lightning, storm, typhoon, tornado, earthquake, landslide, soil erosion, subsidence, washout or other acts of God;
- (b) War, riot, civil war, blockade, insurrection, acts of public enemies or civil disturbance;
- (c) Strike, lockout, or other industrial disturbances;
- (d) Epidemic, plague or quarantine;
- (e) air crash, train wrecks
- (f) acts of war (whether declared or undeclared), sabotage, terrorism or act of public enemy acts of belligerence of foreign enemies (whether declared or undeclared), blockades, embargoes, civil disturbance, revolution, rebellion or insurrection, exercise of military or usurped power, or any attempt at usurpation of power;
- (g) radioactive contamination or ionizing radiation;
- (h) Loss of or damage to or failure of the Transmission Facilities or the Shipper's Facilities, to the extent not caused by the Willful Misconduct of supervisory or management personnel of the Transporter or the Shipper;
- (i) Acts of Government or compliance with such acts, directly affecting the ability of the Shipper or the Transporter to perform its obligations under this Agreement.



### **11.3 Non-Performance Not Excused:**

#### **For either Parties**

Notwithstanding Clauses 11.1 and 11.2 neither Party shall be entitled to claim relief by reason of Force Majeure in respect of:

- a. failure to pay money when due;
- b. failure to give any notice required by this Agreement unless such failure was due to Force Majeure affecting all the means of serving notices specified in Clause 11.5;
- c. obligations of such Party that are required to be completely performed prior to the occurrence of the event of Force Majeure;
- d. the failure of such Party to maintain its facilities or equipment in accordance with the standard of a Reasonable and Prudent Operator;
- e. late performance caused by failure of such Party or its contractors or subcontractors to engage qualified contractors and suppliers or to hire an adequate number of personnel, except where such failure is due to Force Majeure

### **11.4 Force Majeure in Parts:**

In the event that there are more than one CT Redelivery Point in force at the relevant time and the obligations of the Parties are affected as a result of any event of Force Majeure in respect of some but not all the CT Redelivery Point in force or partially affects the obligation of the Parties in relation to a CT Redelivery Point and it is possible for Parties to perform their obligations in respect of the unaffected Redelivery Point, both Parties shall continue to perform their respective obligations in respect of the unaffected Redelivery Point.

### **11.5 A Party Claiming Relief on Account of Force Majeure shall:**

- a. **Give Notice**  
As soon as reasonably practicable but not later than 24 hours of after the either Party acting as a Reasonable and Prudent Operator becomes aware of the event, give notice to the other Party of the event or circumstances said to constitute Force Majeure and likewise give notice to the other Party of the cessation of a Force Majeure event or circumstance;
- b. **Provide Report**  
Within seven (7) Days of such notice, provide a full report about the Force Majeure including particulars of the event or circumstance, a general description of the obligations it is likely to affect, an estimate of its likely duration and a statement of the steps and time believed necessary to remedy and/or overcome any resultant failure to fulfill the obligations excused hereunder;
- c. **Provide Access**

Forthwith, where practicable, (with or without notice) afford the other Party access to any facilities for inspection of the scene of the Force Majeure provided that the risk of such access and inspection shall always be that of the other Party;

- d. **Provide Updates**  
From time to time thereafter at reasonable intervals, and upon the reasonable request of the other Party, give to the other Party further information of the kind described in Clause 11.5 b.;
- e. **Act in Good Faith**  
In relation to all matters affected by the event of Force Majeure, exercise its rights under this Agreement in good faith and without prejudice to the provisions of Clause 11.5 f., with due regard for the interests of the other Party.
- f. **Endeavour to Mitigate**  
In relation to all matters affected by the event of Force Majeure, the Parties shall have mutual consultation with a view to removing the causes of Force Majeure and to mitigate the effects thereof during the period of Force Majeure, by putting reasonable/ plausible measures.

#### **11.6 Force Majeure Event Exceeds sixty (60) Days**

Notwithstanding anything contained hereinabove, if an event of Force Majeure is likely to continue for a period in excess of sixty (60) Days, the Parties shall meet on reasonable endeavour basis to discuss the consequences of the Force Majeure and the course of action to be taken to mitigate the effects thereof or to be adopted in the circumstances.

#### **11.7 Mitigation Responsibility:**

- a. The Affected Party shall use all reasonable diligence and efforts to continue to perform its obligations under this Agreement and, acting as a Reasonable and Prudent Operator, circumvent or overcome any event or circumstance of Force Majeure and minimize its effects: and, relief under this Clause 11 shall cease to be available to the Affected Party claiming Force Majeure if it fails to use such reasonable diligence and efforts during the pendency of any such event.
- b. The Affected Party shall have the burden of proving that the circumstances constitute valid grounds of Force Majeure under this Clause 11 and that it has exercised reasonable diligence and efforts to remedy the cause of any alleged Force Majeure.
- c. The Affected Party shall resume performance as expeditiously as possible after termination of the Force Majeure or after the Force Majeure has abated to an extent which permits resumption of performance;

## **11.8 Consequences of Force Majeure:**

Provided that the Affected Party has complied and continues to comply with the obligations of Clauses 11.2 and 11.3, effective from the relevant date contained in notice given by the Affected Party pursuant to Clause 11.2(a):

- a. the obligations of the Parties under this Agreement to the extent performance thereof is prevented or impeded by the event of Force Majeure shall be suspended and the Parties shall not be liable for the non-performance thereof for the duration of the period of Force Majeure such that the suspension of performance shall be of no greater scope and of no longer requirement than is reasonably required under the circumstances; and
- b. Force Majeure shall not excuse or delay the performance of any obligation of either Party's liabilities including liability to make any payments previously accrued under the terms of this GTA;

The time period(s) for the performance of the obligations of the Parties under this Agreement to the extent performance thereof is prevented or impeded by the event of Force Majeure shall be extended for the duration of the relevant period of Force Majeure.

- 11.9** Where, as a result of any event of Force Majeure, a Party is prevented, hindered or delayed in the performance of its obligations under this Agreement and the event of Force Majeure lasts for more than 180 (one hundred and eighty) consecutive days in respect of an event or from the Date when Affected Party becomes aware of Force Majeure, then the other Party shall have the right to terminate the affected CT by providing a written notice of 30 days to the Affected Party without any obligation to Termination Payment.

## **11.10 Notify the other Party without delay**

- i. the cessation and duration of the event or circumstance of Force Majeure supported by any documentary or reliable evidence; and
- ii. the cessation of the effects of the event or circumstance of Force Majeure on the enjoyment by such Party of its rights or performance of its obligations pursuant to this Agreement.

## CLAUSE 12 – CHANGE IN LAW

12.1 For purposes of this Agreement, the term “**Change in Law**” shall mean the occurrence of any of the following after date of this Agreement:

- a. any enactment or issuance of any new Law;
- b. any amendment, alteration, or modification of an existing Law;
- c. the modification, repeal, amendment or re-enactment of any existing Law (other than a re-enactment which merely consolidates or codifies existing Law);
- d. any cancellation, revocation, withdrawal or suspension of, or failure or refusal to issue or renew any authorisation which is not due to default of any party;
- e. the commencement of any Law which had not at the date of this Agreement yet entered into effect except to the extent such Law was enacted prior to the date of this Agreement with a commencement date after the date of this Agreement and which Law takes effect on that commencement date without material amendment; and
- f. any act, decision, decree or the exercise of any powers after the date of this Agreement of or any government or regulatory authority with power to regulate, control or direct the activities of a Party which affects the Party in respect of the performance of its obligations or the exercise of its rights under this Agreement (other than due to default of any Party)

and which, in any case, (A) has a material adverse effect on either Party and the consequences of which prevent either Party from exercising its material rights or (B) prevents, or relieves either Party from performing its material obligations under this Agreement (any Party so effected being referred to as an “Affected Party”) provided that such material adverse effect could not have been prevented or overcome by the Transporter or the Shipper (as the case may be)

In the event of any change in law including (any Change in Law) arising from regulatory action of the Board, the parties shall discuss the manner in which the effect of such Change in Law shall be dealt with in this Agreement.

Any change in the rate of Taxes applicable to transportation of Gas on the Shipper or the Transporter shall not be a Change in Law. Any change in the rate of Taxes applicable on the transmission of Gas shall pass through to the Shipper as part of the Transportation Charges.

### 12.2 Notice and Reporting Requirements:

- (a) In the event of any Change in Law, the Affected Party shall give written notice thereof to the other Party as soon as reasonably practicable, giving details of the Change in Law and its effects on the rights and obligations of the Affected Party.
- (b) As soon as practicable and in any event within 30 (thirty) Days after the notice referred to in Clause 12.2(a), a further notice shall be given by the Affected Party which shall, inter-alia, specify:

- i. the nature of the Change in Law;
- ii. the material adverse effect of such Change in Law on the Affected Party;
- iii. any other relevant information as may be appropriate in the circumstances.

### **12.3 Overcoming any Change in Law:**

In the event of any Change in Law, representatives of the Parties shall, within 7 (seven) Days following a request by either Party to do so, meet and thereafter negotiate in good faith, on reasonable endeavour basis with a view to agreeing such changes to this Agreement as shall mitigate or overcome the effects of such Change in Law.

### **12.4 Consequences of Change in Law:**

- (a) Provided that an Affected Party has complied and continues to comply with the obligations of Clauses 12.2 and 12.3, that Affected Party shall be entitled to the following relief, effective from the date on which notice is given by that Affected Party pursuant to Clause 12.2(a):
  - i. the obligations of the Affected Party under this Agreement to the extent performance thereof is prevented or impeded by the Change in Law shall be suspended for the duration of the Change in Law period;
  - ii. the time period(s) for the performance of the obligations of the Affected Party under this Agreement to the extent performance thereof is prevented or impeded by the Change in Law shall be extended on a Day for Day basis for the duration of the relevant Change in Law period;
  - iii. Where either Parties rights or obligations under this Agreement are materially and adversely affected by any change of Law for a period of more than one hundred and twenty (120) days then the Affected Party shall have the right to terminate this Agreement immediately upon Notice to the other Party provided that such termination shall not relieve such party terminating the agreement, of their obligations including payment obligations arising before the date of such termination.
- (b) The Parties agree and undertake promptly to implement and give effect to all modifications or adjustments to the provisions of this Agreement as may be agreed or determined pursuant to the Clause 12.3.

**12.5** In the event of any Change in Law, the Shipper or the Transporter shall, throughout the period during which its rights and/or obligations under this Agreement are materially and adversely affected by reason of such Change in Law, allow the other party to have access to such information as the Affected Party may reasonably request in connection with such Change in Law, except any such information which the Shipper or the Transporter may not lawfully make available to the other party without breaching obligations of confidentiality owed to any Third Party, or which the Shipper or the Transporter may otherwise be legally prevented from disclosing to the Affected Party in which case, the Shipper or the Transporter shall use reasonable endeavours to obtain permission to disclose any such confidential information to the Affected Party.

- 12.6** In the event of any change in law other than Taxes that benefits either or both parties, the parties shall meet and agree on the manner in which such Change in Law benefit should be incorporated in this Agreement or to modify/alter/add relevant Clause(s) in this Agreement to achieve the same/near to the purpose/objective/meaning of such relevant Clause(s) of this Agreement, to the extent possible, with mutual consent.

## CLAUSE 13 – TERMINATION

### 13.1 Termination of Agreement:

- (a) In addition to the other provisions in this Agreement, Transporter may serve a notice of its intention to terminate either this Agreement or the relevant CT Agreement which the Transporter believes is the cause of the Event of Default upon the occurrence and continuation of any of the following event (each a “Shipper Event of Default”), unless any such event occurs as a result of a breach by the Transporter of its obligations under this Agreement or by an event of Force Majeure or, except as provided for in Clause 12:
- i. the Shipper fails to pay when due any amounts owed to the Transporter under this Agreement for which Shipper has received the Fortnightly Invoice and where such failure continues for not less than 30 (thirty) Days following the date on which such payment is due;
  - ii. the Shipper fails to issue, extend, replenish or replace any Shipper LC within the time period specified in this Agreement;
  - iii. The Shipper commits any other material breach of its obligations under this Agreement;
  - iv. if Shipper become insolvent
- (b) In addition to the other provisions in this Agreement, Shipper may serve a notice of its intention to terminate either this Agreement or the relevant CT Agreement which the Shipper believes is the cause of the Event of Default upon the occurrence and continuation of any of the following events (each a “Transporter Event of Default”), unless any such event occurs as a result of a breach by the Shipper of its obligations under this Agreement or by an event of Force Majeure or, except as provided for in Clause 12:
- i. the Transporter commits any material breach of its obligations under this Agreement.
  - ii. when, for any Redelivery Point under the CT Agreement, during any 90 (ninety) consecutive Days, the cumulative Shortfall Quantity exceeds 5 Days multiplied by CT Redelivery Point MDQ or during any 365 (three hundred and sixty five) consecutive Days, the cumulative Shortfall Quantity exceeds 20 Days multiplied by CT Redelivery Point MDQ;
  - iii. if Transporter becomes insolvent;

### 13.2 Termination Procedure:

#### a) Termination by the Transporter

- i. Upon the occurrence and continuation of any Shipper Event of Default, the Transporter may deliver a written notice (the “**Shipper Default Notice**”) to the Shipper. Following a Shipper Event of Default, the Transporter shall have the right to suspend the performance of its obligations under this Agreement until such default has been cured in

accordance with the provisions of this Clause 13.2. Any non-performance by the Transporter of its obligations under this Agreement, during such period of suspension shall not amount to a Transporter Event of Default. The Shipper shall be liable for payment of Transmission Charges and Transporter shall not be liable for any Shortfall Quantity for such period of suspension.

- ii. Following the receipt of any Shipper Default Notice, the Shipper shall (i) promptly notify the Transporter of the measures it has taken or intends to take to remedy the Shipper Event of Default which is the subject of such notice, and (ii) within a period of 30 (thirty) Days from the date of such receipt (or such longer period as the Transporter may specify in such notice) (the “**Shipper Cure Period**”) to remedy such breach or default; and, shall act as a Reasonable and Prudent Operator in doing so.
- iii. During any Shipper Cure Period, both Parties shall, save as otherwise provided herein, continue to perform their respective obligations under this Agreement and shall not, whether by act or omission, impede or otherwise interfere with the endeavours of either Party to remedy the breach or default to which such Shipper Cure Period relates. Provided the Transporter shall not be required to perform its obligations under this sub-clause(iii), if the Transporter elects to suspend the performance of its obligations as specified in sub-clause 13.2.(a)(i) above.
- iv. Subject to Clause 13.5, following the expiry of the Shipper Cure Period, if the Shipper Event of Default to which the Shipper Default Notice relates is continuing, the Transporter may terminate this Agreement by written notice (a “**Transporter Termination Notice**”) to the Shipper and this Agreement shall terminate with immediate effect on the date of such Transporter Termination Notice.

**b) Termination by the Shipper**

- i. Upon the occurrence and continuation of any Transporter Event of Default, the Shipper may deliver a notice (the “**Transporter Default Notice**”) to the Transporter. Such notice shall specify in reasonable detail the Transporter Event of Default to which such notice relates.
- ii. Following the receipt of any Transporter Default Notice, the Transporter shall (i) promptly notify the Shipper of the measures it has taken or intends to take to remedy the Transporter Event of Default which is the subject of such notice, and (ii) within a period of 30 (thirty) Days from the date of such receipt (or such longer period as the Shipper may specify in such notice) (the “**Transporter Cure Period**”) to remedy the breach or default; and, shall act as a Reasonable and Prudent Operator in doing so.
- iii. During any Transporter Cure Period, both Parties shall, save as otherwise provided herein, continue to perform their respective obligations under this Agreement and shall not, whether by act or omission, impede or otherwise interfere with the endeavours of either Party to remedy the breach or default to which such Transporter Cure Period relates.



- iv. following the expiry of the Transporter Cure Period, if the Transporter Event of Default to which the Transporter Default Notice relates is continuing, the Shipper may terminate this Agreement by written notice (a “**Shipper Termination Notice**”) to the Transporter and this Agreement shall terminate with immediate effect on the date of such Shipper Termination Notice

### **13.3 Termination Payment** [*only for small Shippers i.e. below 0.05 MMSCMD*] :

If this Agreement is terminated prior to the term of this Agreement as per the clause 13.2 (a), then the Transporter has right to suspend the supplies and Shipper shall make the Termination Payment (with respect to trunk line and spur line including last mile connectivity, if any) as per Exhibit ‘E’ within 15 days of such termination. Shipper shall submit an irrevocable and unconditional Bank Guarantee, as per the format at Exhibit ‘F’ to Transporter on or before the Start date. In case the Shipper fails to make Termination payment as per this clause 13.3 then the Transporter has right to encash such Bank Guarantee. However Shipper shall be liable for payment of balance 40% of respective five year charges for spur line including Last mile connectivity for contracted quantity if this Agreement is terminated by Transporter on the occurrence of default by the Shipper as per clause 13 during the period of the Contract.

Until the termination of this Agreement, the amount of the Bank Guarantee as mentioned above shall be as per the amount given in **Exhibit E & F** for respective contract year.

### **13.4 Termination:**

- a) **Where, as a result of any breach, default or failure by any Party,**
  - i. the Shipper is prevented from delivering Gas to the Transporter Facilities at all of the Delivery Points or from off taking of Gas from the Transporter Facilities at all of the Redelivery Points; or
  - ii. the Transporter is prevented from taking delivery of Gas from Shipper at all of the Delivery Points or from redelivering Gas to Shipper at all of the Redelivery Points,

the non-defaulting Party may terminate this Agreement in accordance with Clause 13.2(a) (iv) (in the case of the Transporter) or Clause 13.2 (b) (iv) (in the case of the Shipper).

- b) **Where, as a result of any breach, default or failure by any Party:**

- i. the Shipper is prevented from delivering Gas to the Transporter Facilities at some but less than all of the Delivery Points or from off taking of Gas from the Transporter Facilities at some but less than all of the Redelivery Points; or
- ii. the Transporter is prevented from taking delivery of Gas from Shipper at some but less than all of the Delivery Points or from redelivering Gas to Shipper at some but less than all of the Redelivery Points, the non-defaulting Party may terminate this Agreement in accordance with Clause 13.2(a) (in the case of the Transporter) or Clause 13.2 (b) (in the case of the Shipper) only in respect of those Delivery Points or Redelivery Points in respect of which the affected party is prevented, hindered or delayed in the performance of its obligations, and notwithstanding any such termination this Agreement shall continue in force, mutatis mutandis, in respect of the remaining Delivery Points or Redelivery Points, as the case may be.

On termination of some but less than all the Redelivery Points, the CT Redelivery Point MDQ of such terminated Redelivery Points shall be equal to zero (0) and the CT Delivery Point MDQ for the corresponding Delivery Points shall be decreased accordingly for such termination.

On termination of some but less than all the Delivery Points, the CT Delivery Point MDQ of such terminated Delivery Point shall be equal to zero (0). Subsequent to such termination, the CT Redelivery Point MDQ of the corresponding Delivery Points shall be zero (0).

### **13.5 Prior rights:**

Any termination of this Agreement in accordance with this Clause 13 shall be without prejudice to, and shall not affect, any right of action or remedy, which has accrued in favour of either Party prior to the date of such termination.

### **13.6 Surviving Provisions:**

The termination of this Agreement shall not affect any rights or obligations, which may have accrued to either Party prior to such termination and the rights and obligations so accrued including in respect of any amounts due and payable under this Agreement, shall survive the termination of this Agreement.

## CLAUSE 14 – LIABILITIES AND INDEMNITIES

### 14.1 Indemnities:

Notwithstanding anything contained in Clause 14.5, the Shipper shall indemnify and hold harmless the Transporter against any and all losses, damages, penalties, costs and expenses on account of any claims raised by any Third Party with respect to the ownership of Gas delivered by Shipper or on behalf of the Shipper to the Transporter under this Agreement (including legal expenses and professional advisory service expenses) suffered or incurred by Transporter on account of any adverse claims of any or all person to the Gas or Third Party interest or any legal proceedings by a third party with respect to the Gas delivered to Transporter at the Delivery Point or made available at the Redelivery Point including but not limited to any such costs and expenses due on account of unpaid royalties, taxes (including any assessments which may be levied and assessed upon such delivery and which are by law payable for such delivery) or any other charges in respect of the production, gathering, processing and tendering of Gas arising on or before delivery by Shipper at the Delivery Point or after delivery at the Redelivery Point. The Transporter shall consult with the Shipper with respect to any claim or action or legal proceeding and the Shipper agrees to cooperate fully upon any such request of the Transporter in connection with any such action, claim, or legal proceeding.

### 14.2 Notwithstanding anything expressed or implied in this Agreement to the contrary:-

- a) Except where a Party willfully breaches this Agreement, neither Party shall be liable to the other Party in contract, tort, warranty, strict liability or any other legal theory in respect of any cost, expense, loss or damage of an indirect, consequential, incidental, punitive or exemplary nature suffered by the other including but not limited to loss of use of property, contract, production, revenue or goodwill or cost of business interruption or increased costs of working howsoever arising including but not limited to the default or sole or concurrent negligence of a Party and whether or not foreseeable at the date of this Agreement. Provided that this provision is not intended to constitute a waiver of any rights of one Party against the other with regard to matters unrelated to this Agreement or to any activity not contemplated by this Agreement.
- b) The Transporter shall have no liability for any failure to transmit Gas in accordance with this Agreement beyond that envisaged in Clauses 7.2 and 7.3 of this Agreement. Transporter shall in no circumstances have any liability or obligation in respect of failure to transmit Gas where such failure is due to the acts or omissions of Shipper hereunder this Agreement. Shipper shall in no circumstances have any liability or obligation in respect its default where such default is due to the acts or omissions of the Transporter hereunder this Agreement.
- c) Neither Party shall be liable to the other Party in respect of any loss, damage, injury or expense under this Agreement to the extent that such loss, damage, injury or expense is attributable to such other Party having failed to act as a Reasonable and Prudent Operator hereunder this Agreement.

#### **14.3 Title to and Custody of Gas:**

- a) The Transporter and the Shipper agree that the Transporter shall not have or receive title to any of the Gas delivered by the Shipper to the Transporter at the Delivery Point for transmission on the Transporter Facilities and delivered by the Transporter to the Shipper at the Redelivery Point.
- b) Transporter shall be deemed to be in control and possession of the Gas following receipt of the Gas from Shipper at the Delivery Point and prior to redelivery of the Gas, to Shipper at the Redelivery Point. The Shipper shall have no responsibility with respect to any Gas after it has been received by Transporter at the Delivery Point on account of anything which may be done, happen or arise with respect to said Gas, prior to its delivery to the Shipper at the Redelivery Point except for any legal claims on the title of such Gas from any Third Party.
- c) Shipper shall be deemed to be in control and possession of the Gas prior to its delivery to the Transporter at the Delivery Point, and after its redelivery by the Transporter at the Redelivery Point. The Transporter shall have no responsibility with respect to the Gas prior to its receipt at the Delivery Point and after its redelivery to Shipper at the Redelivery Point on account of anything which may be done, happen or arise with respect to said Gas prior to such receipt or after such redelivery.
- d) Each Party shall indemnify and hold harmless the other Party from and against any and all losses, damages, penalties, costs and expenses on account of any claims or demands raised by any Third Party (including employees of either Party) or Government Authority, caused or occasioned or attributable to the Gas, while in the custody of such indemnifying Party, including but not limited any loss or harm to the environment or any injury or harm to or death of any person or any damage or loss of property except to the extent caused by willful misconduct or negligence of the other Party.

#### **14.4 Consequential Damages:**

Except as otherwise expressly provided in this Agreement neither Party shall be liable to the other in contract, tort, or otherwise for any indirect loss, consequential, incidental, special, punitive or exemplary damages arising out of or in connection with this Agreement for any reason whatsoever, including any loss of profit unless caused by the other Party's negligence or willful misconduct

#### **14.5 Third Party Indemnification:**

- a. The Transporter shall indemnify and hold harmless the Shipper from and against any and all losses, damages, penalties, costs (including reasonable attorney fees plus court costs) expenses and injuries on account of any claims, demands, proceedings, judgments or causes of action brought by any third party (including employees of either Party) or Government Authority, caused by or resulting from or attributable to the installation, existence, ownership, possession, operation or maintenance of the Transportation Facilities or arising out of acts or omissions by Transporter in the performance of his obligations under this

Agreement including but not limited to any loss or harm to the environment or any injury or harm to, or death of, any Person including any employee of the Shipper or any damage or loss of property, except to the extent caused by the willful misconduct or negligence of the Shipper or breach of this Agreement by the Shipper.

- b. The Shipper shall indemnify and hold harmless the Transporter from and against any and all losses, damages, penalties, costs (including reasonable attorney fees plus court costs), expenses and injuries on account of any claims, demands, proceedings judgments or causes of action brought by any Third Party (including employees of either Party) or Government Authority, caused by or resulting from or attributable to the installation, existence, ownership, possession, operation or maintenance by the Shipper of its Facilities or arising out of acts or omissions of Shipper in the performance of his obligations under this Agreement including but not limited to any loss or harm to the environment or any injury or harm to, or death of, any Person including any employee of the Transporter or any damage or loss of property, except to the extent caused by the willful misconduct or negligence of the Transporter or breach of this Agreement by the Transporter.

#### **14.6 Indemnification due to Inaccuracy:**

Each Party shall indemnify and hold harmless the other Party from any and all damages, losses, penalties, expenses and costs (including reasonable attorney fee plus court costs), injuries and causes of action arising from, based on, related to or associated with the inaccuracy of any representation or warranty set forth in this GTA; provided, however, that the Indemnified Party shall endeavour to mitigate the impact of such inaccuracy of any representation or warranty and minimise the damages, losses, penalties, expenses, costs, payments, injuries, causes of action and liabilities arising there from. In this case, the law shall not account for trifles or minor losses.

#### **14.7 Conduct of Proceedings:**

- i A Party seeking indemnification under this Clause 14 (the Indemnified Party) shall give the other Party (the “Indemnifying Party”) a Notice of any and all claims asserted against the Indemnifying Party for which indemnification is or may be sought hereunder, together with reasonable details of the nature of such claim. Such notice shall be given as soon as the Indemnified Party becomes aware that it has or may have a claim against the Indemnifying Party, provided that failure to give such Notice shall not abrogate or diminish the Indemnifying Party’s obligation under this Clause 14 if the Indemnifying Party has or receives knowledge of the existence of any such claim by any other means.
- ii Any Party entitled to indemnification shall have the right, but not the obligation, to contest, defend and litigate (and to retain legal advisers of its choice in connection therewith) any claim, action, suit or proceeding by any third party alleged or asserted against it and arising out of any matter in respect of which it is entitled to be indemnified hereunder, and the reasonable costs and expenses thereof, shall be subject to the said indemnity, provided that Party obligated to indemnify the other Party shall be entitled, at its option, to assume and control the defense of such claim, action, suit or proceeding at its expense and through legal advisers of its choice, if it:

- (a) gives notice of its intention to do so to the other Party;
  - (b) acknowledges in writing its obligation to indemnify the other Party to the full extent provided by this Clause 14; and
  - (c) reimburses the other Party for the reasonable costs and expenses previously incurred by the other Party prior to the assumption of such defence by Party obligated to provide indemnification.
- iii If any claim, action, proceedings or investigation arises as to which the indemnities provided may apply, and the Indemnifying Party fails to assume the defense of such claim, action, proceeding or investigation, then the indemnified Party may at the Indemnifying Party's expense contest or, with the prior written consent of the Indemnifying Party, settle such claim

#### **14.8 Commingling of Gas:**

The Shipper acknowledges and agrees that Gas under this agreement may be supplied in a commingled stream along with gas from other sources. The Shipper further acknowledges and agrees that there may be processing of Gas for stripping off of higher Hydrocarbons prior to its redelivery at the Redelivery Point(s). However, the parties agree that gas supplied under this agreement shall conform to the Specification of Gas as agreed between them/ parties.

Transporter shall have the right to commingle the Gas delivered to Transporter at the Delivery Point with other Gas in the Transporter's Facilities, subject to Transporter's obligation to redeliver the Gas at Redelivery Point quantities of Gas equivalent to those received at the Delivery Point and within the Specification of Gas as agreed.

#### **14.9 For the purpose of this Clause:**

- i. Transporter shall include its directors, officers, employees, authorized representatives, agents, designated assigns and nominees of each of them.
- ii. Shipper shall include its directors, officers, employees, authorized representatives and agents of each of them.

## **CLAUSE 15 – MISCELLANEOUS PROVISIONS**

### **15.1 Assignment:**

- a) Both Parties may assign or transfer their rights or obligations under this Agreement with the written prior consent of the other Party, which shall not be unreasonably withheld.
- b) Provided however that no such consent of the other Party shall be required, when an assignment is the result of, and part of, a corporate acquisition, merger or reorganisation to an Affiliate.
- c) The Parties acknowledge and consent to such permitted assignment as described in this Clause 15 and the right of any permitted assignee to enforce its rights and remedies following such assignment. The permitted assignee shall be liable for the obligations of the assignor after the date of the assignment unless the prior obligation/s are ratified by assignor upon due assignment.

### **15.2 Amendment:**

The terms of this Agreement may be amended only in writing executed by authorized representatives of the Transporter and the Shipper.

### **15.3 Waiver of Default:**

- (a) No waiver by any Party of one or more defaults by the other Party in the performance of its obligations under this Agreement shall operate or be construed as a waiver of any future default or defaults, whether of a like or of a different character, and no waiver by either Party of any provision of this Agreement shall be binding unless made in writing.
- (b) Neither the failure of either Party to insist on any occasion upon the performance of the terms, conditions and provisions of this Agreement, nor any time or other indulgence granted by one Party to the other shall act as a waiver of any breach or acceptance of any variation or the relinquishment of any right hereunder.

### **15.4 Governing Law and Jurisdiction:**

This Agreement shall be governed and construed in accordance with Laws of India including without limitation, of the relevant Central/State Acts and the Rule, Regulations and Notification issued and amended there under from time to time or enacted / promulgated.

The courts and tribunals at Delhi shall have exclusive jurisdiction over the subject matter of this Agreement.

### **15.5 Entire Agreement:**

This Agreement contains the entire agreement between the Parties relating to the deliver, transmission and redelivery of Gas during the term hereof and, except for the



Agreement, no prior promises, agreements, or warranties, whether written or oral, shall be of any force or effect unless embodied herein. No modification shall be of any force or become effective unless given in writing in the form of a supplement or amendment to this Agreement duly executed by the Parties herein

#### **15.6 Severability:**

If any provisions of this Agreement are declared to be invalid, unenforceable or illegal by any court, such invalidity, un-enforceability or illegality shall not prejudice or affect event, the Parties shall use all reasonable endeavours and enter into negotiations in good faith to agree upon an alternative provision to replace the relevant invalid, unenforceable or illegal provision on terms which are as close as practicable to the provision so replaced.

#### **15.7 Third Party Beneficiaries:**

Neither the Transporter nor the Shipper intend that the provisions of this Agreement should confer any benefit on any Third Party, therefore no Third Party shall have any right to enforce the terms of this Agreement against the Shipper or the Transporter.

#### **15.8 Interpretation:**

In the interpretation and construction of this agreement, no presumption shall be made against any Party on grounds that such Party drafted this Agreement or any provision of this Agreement.

#### **15.9 Notices:**

a) Any notice, which for the purpose of this Agreement shall be in writing and include, notices, Invoices, bills, statements, and notifications, to be given by one Party to the other under this Agreement shall be delivered by hand to the Party in question or sent to such Party by recorded delivery letter, or facsimile addressed to that Party at such address or E – mail, facsimile transmission number as the Party in question shall from time to time designate by written notice and until such notice shall be given the addresses and the facsimile number of the Parties shall be as follows:

i) **For Transporter:**  
Attention: GENERAL MANAGER (O&M)  
Indian Oil Corporation Limited,  
Northern Region Pipelines  
P.O. Panipat Refinery, Baholi,  
Distt.Panipat-132140  
Tel:

**Copy to :**  
Attention:Chief General Manager (Gas Marketing),  
Indian Oil Corporation Limited,  
Planning & Business Development  
CO (BD-Gas), SCOPE Complex, Core-2,  
7, Institutional Area, Lodhi Road,  
New Delhi – 110003



Tel:

ii) **For Shipper:**  
Attention: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Tel:

**Copy to:**  
Attention: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Tel:

- b) All notices, Invoices, bills, statements, bills and notifications delivered electronically, recorded delivery or hand or sent by facsimile at the recipient's address as aforesaid.
- c) Any notices, Invoices, statements, bills & notifications given by facsimile transmission (but excluding routine communications related to Nominations and Scheduling under the Operating Code) shall be subsequently confirmed by letter sent by recorded delivery or hand but without prejudice to the validity of the original notice if received.

**15.10 No Agency:**

This Agreement does not constitute either Party as the agent, partner or legal representative of the other for any purposes whatsoever, and neither Party shall have any express or implied right or authority to assume or to create any obligation or responsibility on behalf of or in the name of the other Party.

**15.11 Language:**

This Agreement is made and shall be construed in English. All notices to be given by any Party hereunder and all other communications and documentation relating to or connected with this Agreement, including any dispute resolution proceedings, shall be in the English language.

**15.12 Confidentiality:**

- a) The following information, "Disclosed Information" shall be treated as confidential during the Contract Period and for a period of 3 (three) Years after the termination of this Agreement: -

- i. The terms and conditions of this Agreement and all information disclosed hereunder; and
  - ii. All information disclosed by either Party in writing from time to time during the course of negotiations prior to the conclusion of this Agreement including any information disclosed by Transporter relating to Transporter Facilities and/or any information disclosed by Shipper relating to its facilities etc.
- b) These shall be excluded from Disclosed Information:-
  - i. Any information which, when used or disclosed, has been made public other than through a breach of this Agreement or has been or could have been lawfully acquired, other than in accordance with the provisions of this Clause 15.12 by the Party or person using the same or to whom disclosure is made; and
  - ii. information legally obtained from third party.
- c) Disclosed Information shall not: -
  - i. be disclosed in whole or in part by either Party to any person; or
  - ii. be used except in connection with the operation of this Agreement in whole or in part by either Party;without the prior written consent of the other Party.
- d) Notwithstanding the provisions of Clause 15.12 c) neither Party shall be required to obtain the prior consent of the other in respect of disclosure of Disclosed Information in accordance with the following provisions: -
  - i. To directors, employees , Affiliates, designated assigns and nominees of a receiving Party, where the receiving Party take reasonable steps to ensure the confidentiality and use of the Disclosed Information;
  - ii. which, at the time of its disclosure, is in the public domain as evidenced by printed publication or other wise;
  - iii. after it disclosure becomes part of the public domain by publication or otherwise except through fault of any Party or its respective employees or representatives;
  - iv. which is required to be produced by law or before any governmental authority or the government or any court or judicial authority of competent jurisdiction or the rules of the stock exchanges on which the shares and other securities of a Party are listed;
  - v. which is obtained by a Party from a third party who is lawfully in possession of such information or data and is not subject to any contractual or fiduciary relationship which would preclude its disclosure;

- vi. where required by a bank or other financial institutions or an equity investor (hereinafter referred to as 'Financier' ,which expression shall include the employees, agents and consultants of such bank or other financial institutions) which is providing finance or intending to provide finance to the Party wishing to disclose such information or data in whole or in part on the security of a charge or other encumbrance or such disclosing Party's interest in this agreement, provided that the Financier has entered into a written agreement with the disclosing Party agreeing to keep such information strictly confidential; and
- vii. To any bona fide intending assignee of the whole or any part of the rights and interests of the disclosing Party under this Agreement but only to the extent required in respect of such proposed assignment and subject to such intending assignee first agreeing with such Party to be bound by confidentiality provisions which are substantially the same as those contained in this Clause 15.12; and
- viii. To any bona fide potential investor proposing to acquire at least five percent (5%) of the equity share capital of the disclosing Party PROVIDED that the disclosing Party shall make such potential investor fully aware of the confidential nature of the information and shall (a) be liable for any disclosures by such potential investor which would constitute breaches of this Clause 15.12 were the potential investor a party to this Agreement; or (b) procure/ensure that such potential investor enter into a confidentiality agreement with the original disclosing Party in terms substantially similar hereto.

Provided that in respect of Clauses 15.12 d) iv, v, vi and vii, the disclosing Party shall keep their disclosure of Disclosed Information to the minimum necessary for the purpose for which it is disclosed and shall whenever practicable and permissible in advance of such disclosure, or if this is not practicable or permissible as soon as reasonably practicable or permissible thereafter, notify the other of such disclosure and the extent and terms thereof and the identity of the person to whom disclosure was made and shall so far as practicable minimise the further disclosure of the Disclosed Information.

**15.13** This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective successors, permitted assigns/ nominees.

**15.14 Consequential Losses:**

Except as otherwise specifically provided herein, neither Party shall be liable to the other Party for any indirect, incidental or consequential loss or damages irrespective of the causes, thereof including fault or negligence.

**15.15 Insurance:**

**(a) Risk and title of Gas**

The title to the Gas delivered by the Shipper to the Transporter at Delivery Point shall at all times rest with the Shipper. Risk of loss of such Gas once delivered to the Transporter at Delivery Point shall shift and be with the Transporter while

such Gas is in possession of the Transporter until redelivered to the Shipper at the Redelivery Point.

**(b) Insurance of Gas**

The Transporter shall be responsible and shall bear the cost of insurance of such Gas as described in Clause 15.15 (a).

**(c) Shipper's Facilities Insurance**

All insurance in respect of the Shipper's Facilities, including third Party risks, shall be the responsibility of the Shipper and the Shipper shall arrange for any such insurances to include a waiver of subrogation rights against the Transporter so that the insurers may not make any claim which the Shipper is prevented from making hereunder.

**(d) Transportation System Insurance**

All insurance in respect of the Transportation System, including third Party risks, shall be the responsibility of the Transporter and the Transporter shall arrange for any such insurances to include a waiver of subrogation rights against the Shipper so that the insurers may not make any claim which the Transporter is prevented from making hereunder.

**15.16 Books and Records:**

The Transporter shall be required to keep accurate records for a period of at least(2) inter alia years of the quantities of Gas nominated, Scheduled Quantities and Allocated Quantities of Gas at the respective Delivery and Redelivery Point in accordance with this Code. The Transporter shall make such records available for the respective Shipper to review at the Transporter's offices during normal business hours upon making a request with a notice period of not less than twenty four (24) hours for the current Contract Year and not less than one week notice for any preceding year.

## CLAUSE 16 – DISPUTE RESOLUTION

- 16.1 Amicable Settlement:** Save in respect of any dispute on matters, which are to be referred to Expert determination or in respect of any dispute on matters which the Parties otherwise agree shall be referred to Expert for determination, any dispute, controversy, difference or claim arising out of or relating to this Agreement or the breach, termination or validity thereof, shall at the first instance be mutually settled between the Parties within a period of 30 days after giving notice by one party to the other party.
- 16.2** In the event of failure of settlement under Clause 16.1 of any such Dispute, the Dispute shall be referred to and finally resolved by arbitration under the Indian Arbitration and Conciliation Act, 1996 (Act 1996) in force at the time such arbitration is commenced.
- 16.3** The dispute shall be settled through Arbitration by sole arbitrator and the procedure for appointment of sole arbitrator shall be as follows:
- i. On invocation of arbitration clause by a party, IOCL shall suggest a panel of three independent and distinguished persons to the Shipper/Buyer to select any one among them to act as the sole arbitrator.
  - ii. In the event of failure of the Shipper/Buyer to select the sole arbitrator within 30 days from the receipt of the communication suggesting the panel of arbitrators, the right of selection of sole arbitrator by the Shipper/Buyer shall stand forfeited and IOCL shall have discretion to appointment of sole arbitrator. The decision of IOCL on the appointment of sole arbitrator shall be final and binding on the parties.
  - iii. In the event of Sole Arbitrator to whom the matter is referred vacates office or is unable to act for any reason, the procedure as explained above (i & ii) shall be followed for selecting new arbitrator.
  - iv. The award of the sole arbitrator shall be final and binding on the parties and unless directed/ awarded otherwise by the sole arbitrator, the cost of arbitration proceedings shall be shared equally by both the parties. The arbitration proceedings shall be in English language and the venue shall be at New Delhi, India.
  - v. The provisions of Arbitration and Conciliation Act, 1996 and the rules framed thereunder shall be applicable.
- 16.4 Referral for Settlement: (*applicable only to central public sector enterprises*)**

In the event of failure of a settlement under Clause 16.1 of any dispute or difference relating to the interpretation and application of the provisions of the contracts, such dispute or difference shall be referred by either party for Arbitration to the sole Arbitrator in the Department of Public Enterprises to be nominated by the Secretary to the Government of India in-charge of the Department of Public Enterprises. The Arbitration and Conciliation Act, 1996 shall not be applicable to arbitration under this clause. The award of the Arbitrator shall be binding upon the parties to the dispute, provided, however, any party aggrieved by such award may make a further reference for setting aside or revision of the award to the Law Secretary, Department of Legal Affairs,

Ministry of Law & Justice, Government of India. Upon such reference the dispute shall be decided by the Law Secretary or the Special Secretary/Additional Secretary, when so authorized by the Law Secretary, whose decision shall bind the Parties finally and conclusively. The Parties to the dispute will share equally the cost of arbitration as intimated by the Arbitrator.

- 16.5** Notwithstanding the above, in cases where a shipper indulges in corrupt/fraudulent/collusive practices and the same is under investigation by CBI or vigilance or any other investigating agency or government etc. above clause shall not apply.

## **CLAUSE 17 – EXPERT**

### **17.1 Amicable Settlement:**

The Parties shall use their respective reasonable endeavors to settle any dispute amicably through negotiations. If a dispute is not resolved within sixty (60) days after written notice of a dispute by one Party to the other Party then the provisions of Clause 16.2 or 16.5 (as the case may be) shall apply unless such dispute is required to be referred to a Sole Expert under Clause 17.2.

### **17.2 Determination by Sole Expert:**

Subject to Clause 17.1, any dispute (technical and operational in nature) to be referred to an Expert in this Agreement shall be referred only to an independent, impartial person (who having certified that he/she does not have a conflict of interest with either Party) with relevant qualifications and experience (the "Sole Expert"). The Sole Expert shall be appointed in accordance with Clause 17.3

### **17.3 Appointment of Sole Expert:**

The procedures for the appointment of a Sole Expert for purposes of Clause 17.2 shall be as follows:

- (a) the Party desiring the appointment to be made shall notify the other Party and provide a list of three (3) independent and distinguished persons for selecting one for the appointment of the Sole Expert (along with qualifications and brief experience), who shall qualify his appointment based on the requirements of Clause 17.2. The notice shall also provide details of the dispute to be resolved by the Sole Expert;
- (b) the other Party shall within [seven (7)] days of receipt of notice from the Party issuing notice select one out of the three (3) independent and distinguished persons as suggested by the Party issuing notice under Clause 17.3(a) to be appointed as the Sole Expert.
  - (i) If such other Party does not approve any of the three (3) persons suggested within such seven (7) day period, it shall provide a list of three (3) persons it approves for the appointment of the Sole Expert (along with qualifications and brief experience), who qualify based on the requirements of Clause 17.2. The other Party may, within seven (7) days of receipt of such notice select the Sole Expert from the list of three (3) persons so suggested, failing which either Party may, as soon as possible, request the Appointing Authority (with a copy to the other Party) to make the appointment of the Sole Expert within thirty (30) days of receipt of the request notice;
- (c) upon a Sole Expert being agreed or selected, the Parties or either of them shall notify such Sole Expert of his selection and shall request him to confirm within fourteen (14) days whether or not he is willing and able to accept the appointment and whether or not there is any conflict of interest or duty.

- (d) if such Sole Expert is either unwilling or unable to accept such appointment or has not confirmed his acceptance of such appointment within fourteen (14) days, then (unless the Parties are able to agree upon the appointment of another Sole Expert) the matter shall be referred (by either Party) to the Appointing Authority who shall be requested to make a further appointment and the process shall be repeated until a Sole Expert is found who accepts appointment;

#### **17.4 Terms of Reference and determination of Sole Expert:**

- (a) The terms of reference of the Sole Expert shall contain, among other things, the following provisions:
  - (i) the Parties shall be entitled to supply data and information and make submissions to the Sole Expert during a period of thirty (30) days commencing the date of the appointment of the Sole Expert. The Sole Expert shall ignore any data, information and submissions supplied and made after such thirty (30) day period unless it is furnished in response to a specific request from the Sole Expert or in response, in accordance with sub-Clause (a) (iii) below, to a submission by the other Party;
  - (ii) the Sole Expert shall be entitled to obtain such independent professional and/or technical advice as may reasonably be required and obtain such secretarial assistance as is reasonably necessary;
  - (iii) copies of all written data, information and submissions supplied or made by any Party to the Sole Expert shall be provided simultaneously to the other Party which shall, within fourteen (14) days of receipt of such data, information or submissions have the right to comment in writing on it to the Sole Expert. Copies of any such comments shall be supplied promptly to the other Party;
  - (iv) no meeting between the Sole Expert and a Party shall take place unless both Parties have a reasonable opportunity to attend any such meeting and of being heard; and
  - (v) the Sole Expert shall give full written reasons for his determination and shall furnish the Parties with a draft of his proposed determination in respect of which the Parties shall be entitled to make representations to the Sole Expert within thirty (30) days of receipt of the same.
- (b) Within a reasonable period (which shall not, without the prior written consent of the Parties, exceed sixty (60) days after the acceptance of his appointment), the Sole Expert shall make a determination regarding the Dispute submitted to him and if he has not rendered such determination within such sixty (60) day period then, at the request of either Party, another Sole Expert shall be appointed. Upon acceptance of such appointment, the appointment of the previous Sole Expert shall cease, unless prior to the date on which the new Sole Expert accepts his appointment, the existing Sole Expert shall have rendered his determination in which case such determination shall be binding on the Parties and the instructions of the new Sole Expert shall be withdrawn.



- (c) The determination of the Sole Expert shall be final and binding upon the Parties in relation to the Dispute referred to him, save in the event of fraud or mistake as to material fact
- (d) Each Party shall bear its own costs in providing all data, information and submissions given by it and the costs and expenses of all lawyers, advisers, witnesses, employees and other persons retained by it. The fee and expenses of the Sole Expert shall be borne equally by both Parties.
- (e) The Sole Expert shall not be considered to be an arbitrator and any proceedings before the Sole Expert shall not be considered to be arbitration proceedings.

IN WITNESS WHEREOF the Parties hereto acting through their properly constituted representatives have set their hands to cause this Agreement to be signed and executed for and on their behalf.

WITNESS FOR & ON BEHALF OF Transporter

1. \_\_\_\_\_  
Name:  
Designation:

2.

WITNESS FOR & ON BEHALF OF Shipper

1. \_\_\_\_\_  
*Name:*

2. Designation:

## ANNEXURE 1 – NORMAL TRANSMISSION RATES

Rates (INR/MMBTU or INR/MSCM on GHV basis)			
Trunk Line Rate 1		As specified in CT Agreement (s)	
Trunk Line Rate 2			
Spur Line Rate			
Connectivity Rate			
Transmission Rate		(Trunk Line Rates plus Spur Line Rate plus Connectivity Rate)	
Other Charges			
S. No.	Item	Particular	Charges
1	Unauthorized Overrun Rate	Beyond 110% of the Allocated Capacity	½ times Tariff of Natural Gas pipeline
2	Positive Imbalance Rate	Cumulative Imbalance beyond 10% of Booked Capacity	½ times Tariff # of Natural Gas pipeline
3	Negative Imbalance Rate	Cumulative Imbalance beyond 5% of Booked Capacity	½ times Tariff # of Natural Gas pipeline

In addition to above charges Fixed Monthly Spur Line charges shall be Rs. \_\_\_\_\_ and shall be payable by the Shipper irrespective of gas transportation/drawal from the start of the first CT Agreement till the term of this agreement or its extension. Provided further no Overrun or imbalance Charges shall be applicable on Fixed Monthly Spur Line Charge.

Transmission Rates for new Delivery / Redelivery Points shall be agreed between the Parties through side letters to this Agreement or in CTAs.

# - The Average Transmission Rate for purposes of the Positive Imbalance Rate and the Negative Imbalance Rate shall be determined as the weighted average of Transmission Rates for all CT Agreements in effect for the applicable Network, weighted in accordance with the CT Redelivery Point MDQ.

## ANNEXURE 2 – GAS SPECIFICATION

1. Hydrocarbon Dew Point – 0 degree Celsius maximum
2. Water Dew Point – 0 degree Celsius maximum
3. Hydrogen Sulfide – 5 ppm by weight maximum
4. Total Sulphur - 10 ppm by weight maximum
5. CO<sub>2</sub> – 6 mole percent maximum
6. Total Inerts – 8 mole percent maximum
7. Temperature – 55 degree Celsius maximum
8. O<sub>2</sub> – 0.2 percent mole volume maximum

However, delivery of Gas at Redelivery Point shall be made in commingled form wherein some of the above parameters may not be in conformance with above range.

**EXHIBIT A – SCHEMATIC OF TRANSPORTER FACILITIES**

*Schematic of Delivery Point*

*Schematic of Redelivery Point*

If required, above schematics may be attached separately.

## EXHIBIT B- TERMS & CONDITIONS OF LETTER OF CREDIT (L/C)

- 1) Name of the Seller/Transporter- **Indian Oil Corporation Limited** (hereinafter referred as “Beneficiary”), Name of the Buyer/Shipper \_\_\_\_\_ (hereinafter referred as “Applicant”) **(to be mentioned in the Letter of Credit L/C)**
- 2) This is a **STANDBY IRREVOCABLE REVOLVING LETTER OF CREDIT (L/C)** which revolves automatically for the next set of documents as soon as the negotiation of present set of document is over and is valid up to .....
- 3) The face value of this Letter of credit (L/C) shall be equal to.....  
(Rupees.....)
- 4) This Letter of Credit (L/C) is issued under .....  
**[Name of Contracts/Agreements to be mentioned]** dated ..... and will be valid for any of the documents such as Invoices/Provisional invoices/Debit notes/Statement of claim/ Demand letter/Claim Letter etc. raised under the aforesaid contracts/agreement, MoP&NG Directions including any statutory authorities as well as supplementary agreements, Side Letters, Term Sheet, amendments etc. and other addenda thereof.
- 5) All bank charges including negotiation, handling, amendment, renewal, interest charges and any other charges shall be borne by the opener of Letter of Credit (L/C) i.e. by the Applicant only.
- 6) Payment against this Letter of Credit (L/C) shall be made at sight to the beneficiary immediately on presentation of a copy of any of the document such as Invoices/Provisional invoices/Debit notes/ Statement of claim / Demand Letter/ Claim letter etc. at any time within the validity period of the Letter of Credit (L/C).
- 7) **Draft/Hundi** drawn under the Letter of Credit (L/C) would be marked the L/C no. ....dated.....
- 8) This Letter of Credit (L/C) shall also cover requests against partial payment and/or multiple drawings.
- 9) This Standby Irrevocable Revolving Letter of Credit (L/C) is available for negotiation directly with the issuing Bank/Branch or through Beneficiary’s Banker without recourse to the Applicant.
- 10) The issuing Bank unconditionally and irrevocably undertakes to the Beneficiary that if the payment pursuant to any demand is not made at sight , interest @ SBI Base Rate+6.25% p.a. would be payable from the date of invocation till the date of actual payment.
- 11) This Letter of Credit (L/C) will automatically be reinstated after invocation i.e. Issuing Bank shall unconditionally and irrevocably undertake to the Beneficiary that, pursuant to any payment/any invocation against the L/C, Issuing Bank shall automatically reinstate the value of this Letter of Credit (L/C) by the amount paid in order to restore this letter of credit (L/C) to its face value.

- 12) The validity of letter of credit (L/C) will be up to .....The Issuing Bank unconditionally and irrevocably undertakes to the Beneficiary that, if at least fifteen (15) days prior to the expiry of this Letter of Credit (L/C), Applicant fails to replace or renew such Letter of Credit (L/C) with another Letter of Credit (L/C) as acceptable to the Beneficiary then, the issuing banker shall make full payment of the L/C face value upon such request by the Beneficiary without asking for any invoice/debit note. Such Amount received by the beneficiary, would be treated as a deposit qua payments/receivables from the Applicant towards future Gas Supplies.
- 13) The Issuing Bank undertakes not to amend any of the terms and conditions of this letter of credit (L/C) without prior consent of Beneficiary during the validity of this Letter of Credit (L/C).
- 14) The issuing Bank certifies that the officer signing this L/C is authorised for this purpose and shall remain binding upon the issuing bank.