

**PART 8 – FORMS OF SERVICE AGREEMENT**

Firm Transportation Service	Form 8.010
Firm No Notice Transportation Service	Form 8.015
Interruptible Transportation Service	Form 8.020
Firm No Notice Storage Service	Form 8.025
Interruptible Storage Service	Form 8.030

FORM OF SERVICE AGREEMENT  
(FT Service)

AGREEMENT made this \_\_\_ day of \_\_\_\_\_, 20\_\_\_, by and between **EMPIRE PIPELINE, INC.**, a New York corporation, hereinafter called “Transporter” and \_\_\_\_\_, a \_\_\_\_\_, hereinafter called “Shipper.” (Transporter and Shipper may be referred to individually as a “Party” and collectively as the “Parties”.)

WHEREAS, Shipper has requested that Transporter transport natural gas; and

WHEREAS, Transporter has agreed to provide such transportation for Shipper subject to the terms and conditions hereof.

WITNESSETH: That, in consideration of the mutual covenants herein contained, the parties hereto agree that Transporter will transport for Shipper, on a firm basis, and Shipper will furnish, or cause to be furnished, to Transporter natural gas for such transportation during the term hereof, at the prices and on the terms and conditions hereinafter provided.

ARTICLE I

Quantities

Subject to the provisions of Transporter’s FT Rate Schedule, Transporter agrees to receive for Shipper’s account for transportation up to the following quantities of natural gas:

Contract Maximum Daily Quantity (MDQ) of \_\_\_\_\_ Dekatherms (Dth)

[Any differing levels of Contract MDQ, and the corresponding applicable time periods, pursuant to Section 2.12 of the FT Rate Schedule, shall appear at this point].

Transporter agrees to deliver for Shipper’s account and Shipper agrees to accept delivery of the above quantities. Shipper also agrees to deliver applicable quantities described in Section 23 of the General Terms and Conditions of Transporter’s FERC Gas Tariff.

ARTICLE II

Rate

Unless otherwise mutually agreed in a written amendment to this Agreement for the service provided by Transporter hereunder, or in a negotiated rate agreement set forth in Exhibit B hereto, Shipper shall pay Transporter the maximum rate provided under Rate Schedule FT set forth in Transporter’s effective FERC Gas Tariff.

In the event that Transporter places on file with the Federal Energy Regulatory Commission (“Commission”) another rate schedule which may be applicable to transportation service rendered

hereunder, then Transporter, at its option, may from and after the effective date of such rate schedule, utilize such rate schedule in performance of this Agreement. Such a rate schedule(s) or superseding rate schedule(s) and any revisions thereof which shall be filed and become effective shall apply to and be a part of this Agreement. Transporter shall have the right to propose, file and make effective with the Commission, or other body having jurisdiction, changes and revisions of any effective rate schedule(s), or to propose, file, and make effective superseding rate schedules, for the purpose of changing the rate, charges, and other provisions thereof effective as to Shipper. Nothing herein contained shall be construed to deny Shipper any rights it may have under applicable law, including the right to participate fully in rate proceedings by intervention or otherwise to contest increased rates in whole or in part.

### ARTICLE III

#### Term of Agreement

This Agreement shall be effective upon the date hereof. Service hereunder shall commence \_\_\_\_\_ (“Commencement Date”) and continue in effect for a [primary] term ending \_\_\_\_\_. [, and shall continue in effect thereafter unless and until terminated by either Shipper or Transporter upon \_\_\_\_\_ months advance written notice specifying as the termination date the expiration of the primary term or any anniversary thereof]. As of the Commencement Date, Transporter will stand ready to provide transportation service for Shipper pursuant to the terms of this Agreement, and Shipper shall be responsible for all charges hereunder, notwithstanding the status of any facilities being constructed by others to provide upstream or downstream transportation of gas to be transported hereunder.

{In general, the bracketed language shall be included in agreements with a term of one (1) year or longer, except for service agreements for capacity available only during an Interim Period under Section 14.5 of the General Terms and Conditions and service agreements for capacity available on a limited-term basis up to the in-service date of an expansion projects under Section 17 of the General Terms and Conditions. In general, the notice period to be inserted shall be six (6) months where the primary term is two (2) years or less, and twelve (12) months where the primary term is more than two (2) years. Transporter and Shipper may agree on a not unduly discriminatory basis to include the bracketed language in shorter-term agreements or to different notice or evergreen periods.}

[Any agreement pursuant to the first sentence of Section 15.1 of the General Terms and Conditions shall appear at this point].

### ARTICLE IV

#### Points of Receipt and Delivery

The Point(s) of Receipt for all gas that may be received for Shipper’s account for transportation by Transporter, and the MDQ applicable to each point of receipt, shall be: See Exhibit A.

The Point(s) of Delivery for all gas to be delivered by Transporter for Shipper’s account and the MDQ applicable to each point of delivery shall be: See Exhibit A.

For purposes of Section 2.8 of the FT Rate Schedule, Shipper’s transportation path and the eligible receipt and delivery points along such path are as follows: See Exhibit A.

## ARTICLE V

### Regulatory Approval

Performance under this Agreement by Transporter and Shipper shall be contingent upon Transporter receiving all necessary regulatory or other governmental approvals upon terms satisfactory to Transporter. Should Transporter be denied such approvals to provide the service contemplated herein or construct and operate any necessary facilities therefor upon the terms and conditions requested in the application therefor or other terms and conditions acceptable to Transporter, then Transporter's and Shipper's obligations hereunder shall terminate.

## ARTICLE VI

### Incorporation by Reference of Tariff Provisions

To the extent not inconsistent with the terms and conditions of this Agreement, the provisions of Rate Schedule FT, or any effective superseding rate schedule or otherwise applicable rate schedule, including any provisions of the General Terms and Conditions incorporated therein, and any revisions thereof that may be made effective hereafter are hereby made applicable to and a part hereof by reference.

## ARTICLE VII

### Miscellaneous

1. No change, modification or alteration of this Agreement shall be or become effective until executed in writing by the parties hereto, and no course of dealing between the parties shall be construed to alter the terms hereof, except as expressly stated herein.
2. No waiver by any party of any one or more defaults by the other in the performance of any provisions of this Agreement shall operate or be construed as a waiver of any other default or defaults, whether of a like or of a different character.
3. Any company which shall succeed by purchase, merger or consolidation of the gas related properties, substantially as an entirety, of Transporter or of Shipper, as the case may be, shall be entitled to the rights and shall be subject to the obligations of its predecessor in title under this Agreement. Either party may, without relieving itself of its obligations under this Agreement, assign any of its rights hereunder to a company with which it is affiliated, but otherwise, no assignment of this Agreement or of any of the rights or obligations hereunder shall be made unless there first shall have been obtained the consent thereto in writing of the other party. Consent shall not be unreasonably withheld.
4. Except as herein otherwise provided, any notice, request, demand, statement or bill provided for in this Agreement, or any notice which either party may desire to give the other, shall be in writing and shall be considered as duly delivered when mailed by registered mail, or certified mail, or sent by UPS, FedEx or equivalent form of delivery that requires signature upon receipt to the Post Office address of the parties hereto, as the case may be, as follows:

Transporter: Empire Pipeline, Inc.  
Attn: Empire Contract Administration Department  
6363 Main Street  
Williamsville, New York 14221

Shipper:

or at such other address as either party shall designate by formal written notice. Routine communications, including monthly statements, shall be considered as duly delivered when mailed by either registered, certified, or ordinary mail, electronic communication, or telecommunication.

5. Transporter shall proceed with due diligence to obtain such governmental and other regulatory authorizations as may be required for the rendition of the services contemplated herein, provided that Transporter reserves the right to file and prosecute applications for such authorizations, any supplements or amendments thereto and, if necessary, any court review, in such manner as it deems to be in its best interest, including the right to withdraw the application or to file pleadings and motions (including motions for dismissal).

6. This Agreement and the respective obligations of the parties hereunder are subject to all present and future valid laws, orders, rules and regulations of constituted authorities having jurisdiction over the parties, their functions or gas supply, this Agreement or any provision hereof. Neither party shall be held in default for failure to perform hereunder if such failure is due to compliance with laws, orders, rules or regulations of any such duly constituted authorities.

7. The subject headings of the articles of this Agreement are inserted for the purpose of convenient reference and are not intended to be a part of the Agreement nor considered in any interpretation of the same.

8. No presumption shall operate in favor of or against either party hereto as a result of any responsibility either party may have had for drafting this Agreement.

**9. THE INTERPRETATION AND PERFORMANCE OF THIS AGREEMENT SHALL BE IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK, WITHOUT RECOURSE TO THE LAW REGARDING THE CONFLICT OF LAWS.**

10. The Parties' obligations hereunder are not subject to the availability of transportation services upstream and downstream of Transporter's system. Shipper assumes all responsibility for the arrangement of any such upstream and downstream service.

11. It is expressly agreed that there is no Third Party Beneficiary of this Agreement, and that the provisions of this Agreement and the General Terms and Conditions do not impart enforceable rights in anyone who is not a party or successor or assignee of any party to this Agreement.

12. This Agreement and any amendments thereto may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Agreement. The Parties agree that a facsimile, email or other electronic version of the

Agreement, when properly executed, shall be considered for all purposes an original document, and a signed and binding Agreement.

13. This Agreement supersedes and cancels the following contract(s) between the Parties to be effective \_\_\_\_\_.

[14. - 15.] [If service is provided under Subpart 284B of the Commission’s regulations, a reference thereto would be inserted here.]

[Where Transporter and Shipper agree that their service agreement will be subject to the provisions of Section 15 of the General Terms and Conditions, the following provisions will be inserted:

Transporter and Shipper agree that this Agreement shall be treated as a Qualifying Agreement for purposes of Section 15 of the General Terms and Conditions.]  
[include any restrictions on Shipper’s right of first refusal here]

[Any restrictions on a shipper’s right of first refusal resulting from a limitation on acquired capacity, pursuant to Section 13(c) of the General Terms and Conditions, shall be inserted here]

[If Transporter and Shipper have entered into credit and/or reimbursement agreements in connection with a facility construction project, a cross-reference may appear here.]

The parties hereto have caused this Agreement to be signed by their duly authorized personnel the day and year first above written.

EMPIRE PIPELINE, INC.  
(Transporter)

Signature: \_\_\_\_\_

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

Title: \_\_\_\_\_

(Shipper)

Signature: \_\_\_\_\_

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

Title: \_\_\_\_\_

EXHIBIT A  
To FT Service Agreement # \_\_\_\_\_  
between  
Empire Pipeline, Inc. (“Transporter”)  
and  
\_\_\_\_\_ (“Shipper”)

**Point(s) of Receipt**

<u>Point</u>	<u>MDTQ</u>	<u>Pressure</u>
The interconnection between Transporter and _____.	_____ Dth / Day	[Insert minimum receipt pressure if applicable, and any applicable conditions or time periods]

**Point(s) of Delivery**

<u>Point</u>	<u>MDTQ</u>	<u>Pressure</u>
The interconnection between Transporter and _____.	_____ Dth / Day	[Insert minimum delivery pressure if applicable, and any applicable conditions or time periods]

**Transportation Path**

FORM OF SERVICE AGREEMENT  
(FTNN Service)

AGREEMENT made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between **EMPIRE PIPELINE, INC.**, a New York corporation, hereinafter called “Transporter” and \_\_\_\_\_, a \_\_\_\_\_, hereinafter called “Shipper.” (Transporter and Shipper may be referred to individually as a “Party” and collectively as the “Parties”.)

WHEREAS, Shipper has requested that Transporter transport natural gas; and

WHEREAS, Transporter has agreed to provide such transportation for Shipper subject to the terms and conditions hereof.

WITNESSETH: That, in consideration of the mutual covenants herein contained, the parties hereto agree that Transporter will transport for Shipper, on a firm basis, and Shipper will furnish, or cause to be furnished, to Transporter natural gas for such transportation during the term hereof, at the prices and on the terms and conditions hereinafter provided.

ARTICLE I

Quantities

Subject to the provisions of Transporter’s FTNN Rate Schedule, Transporter agrees to transport for Shipper’s account up to the following quantities of natural gas:

Contract Maximum Daily Quantity (MDQ) of \_\_\_\_\_ Dekatherms (Dth)

[Any differing levels of Contract MDQ, and the corresponding applicable time periods, pursuant to Section 2.12 of the FTNN Rate Schedule, shall appear at this point].

Transporter agrees to deliver for Shipper’s account and Shipper agrees to accept delivery of the above quantities. Shipper also agrees to deliver applicable quantities described in Section 23 of the General Terms and Conditions of Transporter’s FERC Gas Tariff.

ARTICLE II

Rate

Unless otherwise mutually agreed in a written amendment to this Agreement, for the service provided by Transporter hereunder, Shipper shall pay Transporter the maximum rate provided under Rate Schedule FTNN set forth in Transporter’s effective FERC Gas Tariff.

In the event that Transporter places on file with the Federal Energy Regulatory Commission (“Commission”) another rate schedule which may be applicable to transportation service rendered hereunder, then Transporter, at its option, may from and after the effective date of such rate schedule, utilize such rate schedule in performance of this Agreement. Such a rate schedule(s) or superseding rate schedule(s) and any revisions thereof which shall be filed and become effective shall apply to and be a part of this Agreement. Transporter shall have the right to propose, file and make effective with the



Commission, or other body having jurisdiction, changes and revisions of any effective rate schedule(s), or to propose, file, and make effective superseding rate schedules, for the purpose of changing the rate, charges, and other provisions thereof effective as to Shipper. Nothing herein contained shall be construed to deny Shipper any rights it may have under applicable law, including the right to participate fully in rate proceedings by intervention or otherwise to contest increased rates in whole or in part.

### ARTICLE III

#### Term of Agreement

This Agreement shall be effective upon the date hereof. Service hereunder shall commence \_\_\_\_\_ (“Commencement Date”) and continue in effect for a [primary] term ending \_\_\_\_\_. [, and shall continue in effect thereafter unless and until terminated by either Shipper or Transporter upon \_\_\_\_\_ months advance written notice specifying as the termination date the expiration of the primary term or any anniversary thereof]. As of the Commencement Date, Transporter will stand ready to provide transportation service for Shipper pursuant to the terms of this Agreement, and Shipper shall be responsible for all charges hereunder, notwithstanding the status of any facilities being constructed by others to provide upstream or downstream transportation of gas to be transported hereunder.

{In general, the bracketed language shall be included in agreements with a term of one (1) year or longer, except for service agreements for capacity available only during an Interim Period under Section 14.5 of the General Terms and Conditions and service agreements for capacity available on a limited-term basis up to the in-service date of an expansion projects under Section 17 of the General Terms and Conditions. In general, the notice period to be inserted shall be six (6) months where the primary term is two (2) years or less, and twelve (12) months where the primary term is more than two (2) years. Transporter and Shipper may agree on a not unduly discriminatory basis to include the bracketed language in shorter-term agreements or to different notice or evergreen periods. }

[Any agreement pursuant to the first sentence of Section 15.1 of the General Terms and Conditions shall appear at this point].

### ARTICLE IV

#### Points of Receipt and Delivery

The Point(s) of Receipt for all gas that may be received for Shipper’s account for transportation by Transporter, and the MDQ applicable to each point of receipt, shall be: See Exhibit A.

The Point(s) of Delivery for all gas to be delivered by Transporter for Shipper’s account and the MDQ applicable to each point of delivery shall be: See Exhibit A.

For purposes of Section 2.8 of the FTNN Rate Schedule, Shipper’s transportation path and the eligible receipt and delivery points along such path are as follows: See Exhibit A.

## ARTICLE V

### Regulatory Approval

Performance under this Agreement by Transporter and Shipper shall be contingent upon Transporter receiving all necessary regulatory or other governmental approvals upon terms satisfactory to Transporter. Should Transporter be denied such approvals to provide the service contemplated herein or construct and operate any necessary facilities therefor upon the terms and conditions requested in the application therefor or other terms and conditions acceptable to Transporter, then Transporter's and Shipper's obligations hereunder shall terminate.

## ARTICLE VI

### Incorporation by Reference of Tariff Provisions

To the extent not inconsistent with the terms and conditions of this Agreement, the provisions of Rate Schedule FTNN, or any effective superseding rate schedule or otherwise applicable rate schedule, including any provisions of the General Terms and Conditions incorporated therein, and any revisions thereof that may be made effective hereafter are hereby made applicable to and a part hereof by reference.

## ARTICLE VII

### Miscellaneous

1. No change, modification or alteration of this Agreement shall be or become effective until executed in writing by the parties hereto, and no course of dealing between the parties shall be construed to alter the terms hereof, except as expressly stated herein.

2. No waiver by any party of any one or more defaults by the other in the performance of any provisions of this Agreement shall operate or be construed as a waiver of any other default or defaults, whether of a like or of a different character.

3. Any company which shall succeed by purchase, merger or consolidation of the gas related properties, substantially as an entirety, of Transporter or of Shipper, as the case may be, shall be entitled to the rights and shall be subject to the obligations of its predecessor in title under this Agreement. Either party may, without relieving itself of its obligations under this Agreement, assign any of its rights hereunder to a company with which it is affiliated, but otherwise, no assignment of this Agreement or of any of the rights or obligations hereunder shall be made unless there first shall have been obtained the consent thereto in writing of the other party. Consent shall not be unreasonably withheld.

4. Except as herein otherwise provided, any notice, request, demand, statement or bill provided for in this Agreement, or any notice which either party may desire to give the other, shall be in writing and shall be considered as duly delivered when mailed by registered mail, or certified mail, or sent by UPS, FedEx or equivalent form of delivery that requires signature upon receipt to the Post Office address of the parties hereto, as the case may be, as follows:

Transporter: Empire Pipeline, Inc.  
Attn: Empire Contract Administration Department  
6363 Main Street  
Williamsville, New York 14221

Shipper:

or at such other address as either party shall designate by formal written notice. Routine communications, including monthly statements, shall be considered as duly delivered when mailed by either registered, certified, or ordinary mail, electronic communication, or telecommunication.

5. Transporter shall proceed with due diligence to obtain such governmental and other regulatory authorizations as may be required for the rendition of the services contemplated herein, provided that Transporter reserves the right to file and prosecute applications for such authorizations, any supplements or amendments thereto and, if necessary, any court review, in such manner as it deems to be in its best interest, including the right to withdraw the application or to file pleadings and motions (including motions for dismissal).

6. This Agreement and the respective obligations of the parties hereunder are subject to all present and future valid laws, orders, rules and regulations of constituted authorities having jurisdiction over the parties, their functions or gas supply, this Agreement or any provision hereof. Neither party shall be held in default for failure to perform hereunder if such failure is due to compliance with laws, orders, rules or regulations of any such duly constituted authorities.

7. The subject headings of the articles of this Agreement are inserted for the purpose of convenient reference and are not intended to be a part of the Agreement nor considered in any interpretation of the same.

8. No presumption shall operate in favor of or against either party hereto as a result of any responsibility either party may have had for drafting this Agreement.

**9. THE INTERPRETATION AND PERFORMANCE OF THIS AGREEMENT SHALL BE IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK, WITHOUT RECOURSE TO THE LAW REGARDING THE CONFLICT OF LAWS.**

10. The Parties' obligations hereunder are not subject to the availability of transportation services upstream and downstream of Transporter's system. Shipper assumes all responsibility for the arrangement of any such upstream and downstream service.

11. It is expressly agreed that there is no Third Party Beneficiary of this Agreement, and that the provisions of this Agreement and the General Terms and Conditions do not impart enforceable rights in anyone who is not a party or successor or assignee of any party to this Agreement.

12. This Agreement and any amendments thereto may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Agreement. The Parties agree that a facsimile, email or other electronic version of the Agreement, when properly executed, shall be considered for all purposes an original document, and a signed and binding Agreement.

[13. This Agreement supersedes and cancels the following contract(s) between the Parties as of \_\_\_\_\_.]

[14. - 15.] [If service is provided under Subpart 284B of the Commission's regulations, a reference thereto would be inserted here.]

[Where Transporter and Shipper agree that their service agreement will be subject to the provisions of Section 15 of the General Terms and Conditions, the following provisions will be inserted:

Transporter and Shipper agree that this Agreement shall be treated as a Qualifying Agreement for purposes of Section 15 of the General Terms and Conditions.]

[Any restrictions on a shipper's right of first refusal resulting from a limitation on acquired capacity, pursuant to Section 13(c) of the General Terms and Conditions, shall be inserted here]

[If Transporter and Shipper have entered into credit and/or reimbursement agreements in connection with a facility construction project, a cross-reference may appear here.]

The parties hereto have caused this Agreement to be signed by their duly authorized personnel the day and year first above written.

EMPIRE PIPELINE, INC.  
(Transporter)

Signature: \_\_\_\_\_

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

Title: \_\_\_\_\_

(Shipper)

Signature: \_\_\_\_\_

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

Title: \_\_\_\_\_

**EXHIBIT A**  
 To FTNN Service Agreement # \_\_\_\_\_  
 between  
 Empire Pipeline, Inc. (“Transporter”)  
 and  
 \_\_\_\_\_ (“Shipper”)

**Point(s) of Receipt**

Point (Transportation)	MDTQ	Pressure
The interconnection between Transporter and _____.	___ Dth / D	[Insert minimum between Transporter and receipt pressure if applicable, and any applicable conditions or time periods]
Point (Withdrawal Receipt Point)	MDWTQ	Pressure
The interconnection between Transporter and _____.	___ Dth / D	[Insert minimum between Transporter and receipt pressure if applicable, and any applicable conditions or time periods]
Point (Injection Receipt Point)	MDITQ	Pressure
The interconnection between Transporter and _____.	___ Dth / D	[Insert minimum between Transporter and receipt pressure if applicable, and any applicable conditions or time periods]

**Point(s) of Delivery**

Point (Transportation)	MDTQ	Pressure
The interconnection between Transporter and _____.	___ Dth / D	[Insert minimum between Transporter and receipt pressure if applicable, and any applicable conditions or time periods]
Point (Withdrawal Delivery Point)	MDWTQ	Pressure
The interconnection between Transporter and Shipper _____.	___ Dth / D	[Insert minimum between Transporter and receipt pressure if applicable, and any applicable conditions or time periods]

*[continued on next page]*

EXHIBIT A (continued)  
To FTNN Service Agreement # \_\_\_\_\_  
between  
Empire Pipeline, Inc. (“Transporter”)  
and  
\_\_\_\_\_ (“Shipper”)

Point (Injection Delivery Point)

MDITQ

Pressure

The interconnection between Transporter  
and \_\_\_\_\_.

\_\_\_ Dth / D

[Insert minimum between  
Transporter and receipt pressure  
if applicable, and any applicable  
conditions or time periods]

**Transportation Path**

FORM OF SERVICE AGREEMENT  
(IT Service)

AGREEMENT made this \_\_\_ day of \_\_\_\_\_, 20\_\_\_, by and between **EMPIRE PIPELINE, INC.**, a New York corporation, hereinafter called “Transporter” and \_\_\_\_\_, a \_\_\_\_\_, hereinafter called “Shipper.”

WHEREAS, Shipper has requested that Transporter transport natural gas; and

WHEREAS, Transporter has agreed to provide such transportation for Shipper subject to the terms and conditions hereof.

WITNESSETH: That, in consideration of the mutual covenants herein contained, the parties hereto agree that Transporter will transport for Shipper, on an interruptible basis, and Shipper will furnish, or cause to be furnished, to Transporter natural gas for such transportation during the term hereof, at the prices and on the terms and conditions hereinafter provided.

ARTICLE I

Quantities

Subject to the provisions of Transporter’s IT Rate Schedule, Transporter agrees to receive for Shipper’s account for transportation up to the following quantities of natural gas:

Maximum Daily Quantity (MDQ) of \_\_\_\_\_ Dekatherms (Dth)

Transporter agrees to deliver for Shipper’s account and Shipper agrees to accept delivery of the quantities received from Shipper. Shipper also agrees to deliver applicable quantities described in Section 23 of the General Terms and Conditions of Transporter’s effective FERC Gas Tariff.

ARTICLE II

Rate

Unless otherwise mutually agreed in a written amendment to this Agreement, for the service provided by Transporter hereunder, [and except as provided below] Shipper shall pay Transporter the applicable posted rate pursuant to Section 3.6 of Rate Schedule IT, if any, subject to the limitations of such section and such posting, or otherwise the maximum rate provided under Rate Schedule IT set forth in Transporter’s effective FERC Gas Tariff. [Additional rate-related provisions may be inserted here.]

In the event that Transporter places on file with the Federal Energy Regulatory Commission (“Commission”) another rate schedule which may be applicable to transportation service rendered hereunder, then Transporter, at its option, may from and after the effective date of such rate schedule, utilize such rate schedule in performance of this Agreement. Such a rate schedule(s) or superseding rate schedule(s) and any revisions thereof which shall be filed and become effective shall apply to and be a part of this Agreement. Transporter shall have the right to propose, file and make effective with the Commission, or other body having jurisdiction, changes and revisions of any effective rate schedule(s), or



to propose, file, and make effective Superseding rate schedules, for the purpose of changing the rate, charges, and other provisions thereof effective as to Shipper.

### ARTICLE III

#### Term of Agreement

This Agreement shall be effective as of \_\_\_\_\_ and shall continue in effect until \_\_\_\_\_, and shall continue in effect thereafter until terminated by either Shipper or Transporter upon thirty (30) days notice to the other party.

### ARTICLE IV

#### Points of Receipt and Delivery

The Point(s) of Receipt for all gas received for Shipper's account for transportation by Transporter shall be:

The Point(s) of Delivery for all gas delivered by Transporter for Shipper's account shall be:

### ARTICLE V

#### Regulatory Approval

Performance under this Agreement by Transporter and Shipper shall be contingent upon Transporter receiving all necessary regulatory or other governmental approvals upon terms satisfactory to Transporter. Should Transporter be denied such approvals to provide the service contemplated herein or construct and operate any necessary facilities therefor upon the terms and conditions requested in the application therefor or other terms and conditions acceptable to Transporter, then Transporter's and Shipper's obligations hereunder shall terminate.

### ARTICLE VI

#### Incorporation by Reference of Tariff Provisions

To the extent not inconsistent with the terms and conditions of this Agreement, the provisions of Rate Schedule IT, including any provisions of the General Terms and Conditions incorporated therein, or any effective superseding rate schedule or otherwise applicable rate schedule, and any revisions thereof that may be made effective hereafter are hereby made applicable to and a part hereof by reference.

## ARTICLE VII

### Miscellaneous

1. No change, modification or alteration of this Agreement shall be or become effective until executed in writing by the parties hereto, and no course of dealing between the parties shall be construed to alter the terms hereof, except as expressly stated herein.

2. No waiver by any party of any one or more defaults by the other in the performance of any provisions of this Agreement shall operate or be construed as a waiver of any other default or defaults, whether of a like or of a different character.

3. Any company which shall succeed by purchase, merger or consolidation of the gas related properties, substantially as an entirety, of Transporter or of Shipper, as the case may be, shall be entitled to the rights and shall be subject to the obligations of its predecessor in title under this Agreement. Either party may, without relieving itself of its obligations under this Agreement, assign any of its rights hereunder to a company with which it is affiliated, but otherwise, no assignment of this Agreement or of any of the rights or obligations hereunder shall be made unless there first shall have been obtained the consent thereto in writing of the other party. Consent shall not be unreasonably withheld.

4. Except as herein otherwise provided, any notice, request, demand, statement or bill provided for in this Agreement, or any notice which either party may desire to give the other, shall be in writing and shall be considered as duly delivered when mailed by registered mail, or certified mail, or sent by UPS, FedEx or equivalent form of delivery that requires signature upon receipt to the Post Office address of the parties hereto, as the case may be, as follows:

Transporter: Empire Pipeline, Inc.  
Attn: Empire Contract Administration Department  
6363 Main Street  
Williamsville, New York 14221

Shipper:

or at such other address as either party shall designate by formal written notice. Routine communications, including monthly statements, shall be considered as duly delivered when mailed by either registered, certified, ordinary mail, electronic communication, or telecommunication.

5. Transporter shall proceed with due diligence to obtain such governmental and other regulatory authorizations as may be required for the rendition of the services contemplated herein, provided that Transporter reserves the right to file and prosecute applications for such authorizations, any supplements or amendments thereto and, if necessary, any court review, in such manner as it deems to be in its best interest, including the right to withdraw the application or to file pleadings and motions (including motions for dismissal).

6. This Agreement and the respective obligations of the parties hereunder are subject to all present and future valid laws, orders, rules and regulations of constituted authorities having jurisdiction over the parties, their functions or gas supply, this Agreement or any provision hereof. Neither party shall

be held in default for failure to perform hereunder if such failure is due to compliance with laws, orders, rules or regulations of any such duly constituted authorities.

7. The subject headings of the articles of this Agreement are inserted for the purpose of convenient reference and are not intended to be a part of the Agreement nor considered in any interpretation of the same.

8. No presumption shall operate in favor of or against either party hereto as a result of any responsibility either party may have had for drafting this Agreement.

**9. THE INTERPRETATION AND PERFORMANCE OF THIS AGREEMENT SHALL BE IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK, WITHOUT RECOURSE TO THE LAW REGARDING THE CONFLICT OF LAWS.**

10. The Parties' obligations hereunder are not subject to the availability of transportation services upstream and downstream of Transporter's system. Shipper assumes all responsibility for the arrangement of any such upstream and downstream service.

11. It is expressly agreed that there is no Third Party Beneficiary of this Agreement, and that the provisions of this Agreement and the General Terms and Conditions do not impart enforceable rights in anyone who is not a party or successor or assignee of any party to this Agreement.

12. This Agreement and any amendments thereto may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Agreement. The Parties agree that a facsimile, email or other electronic version of the Agreement, when properly executed, shall be considered for all purposes an original document, and a signed and binding Agreement.

13. This Agreement supersedes and cancels the following contract(s) between the Parties to be effective \_\_\_\_\_.

[14.] [If service is provided under Subpart 284B of the Commission's regulations, a reference thereto would be inserted here.]

The parties hereto have caused this Agreement to be signed by their duly authorized personnel the day and year first above written.

EMPIRE PIPELINE, INC.  
(Transporter)

Signature: \_\_\_\_\_

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

Title: \_\_\_\_\_

(Shipper)

Signature: \_\_\_\_\_

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

Title: \_\_\_\_\_

**FORM OF SERVICE AGREEMENT  
 (FSNN Service)**

AGREEMENT made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between **EMPIRE PIPELINE, INC.**, a New York corporation, hereinafter called “Transporter,” and \_\_\_\_\_, a \_\_\_\_\_, hereinafter called “Shipper.” (Transporter and Shipper may be referred to individually as a “Party” and collectively as the “Parties”.)

WITNESSETH: That in consideration of the mutual covenants herein contained, the parties hereto agree that Transporter will store natural gas for Shipper during the term, at the rates and on the terms and conditions hereinafter provided.

ARTICLE I

Quantities

Subject to the provisions of Transporter’s FSNN Rate Schedule Transporter agrees to cause to be injected into storage for Shipper’s account, store, and withdraw from storage, quantities of natural gas as follows:

- Maximum Storage Quantity (MSQ) of \_\_\_\_\_ Dekatherms (Dth)
- Maximum Injection Quantity (MDIQ) of \_\_\_\_\_ Dth
- Maximum Withdrawal Quantity (MDWQ) of \_\_\_\_\_ Dth

Pursuant to Section 2.5 of the FSNN Rate Schedule, Shipper’s right to withdraw gas will vary according to the percentage of the Shipper’s Maximum Storage Quantity (MSQ) occupied at the commencement of any given day as follows:

<u>Percentage of MSQ Occupied</u>	<u>Withdrawal Right (Dth/day)</u>
From greater than 27% to 100%	[Enter 100% of the MDWQ]
From greater than 11% to 27%	[Enter 65% of the MDWQ]
From 0% to 11%	[Enter 43% of the MDWQ]

## ARTICLE II

### Rate

Unless otherwise mutually agreed in a written amendment to this Agreement, for the service provided by Transporter hereunder, Shipper shall pay Transporter the maximum rate provided under Rate Schedule FSNN set forth in Transporter's effective FERC Gas Tariff.

In the event that Transporter places on file with the Federal Energy Regulatory Commission ("Commission") another rate schedule which may be applicable to transportation service rendered hereunder, then Transporter, at its option, may from and after the effective date of such rate schedule, utilize such rate schedule in performance of this Agreement. Such a rate schedule(s) or superseding rate schedule(s) and any revisions thereof which shall be filed and become effective shall apply to and be a part of this Agreement. Transporter shall have the right to propose, file and make effective with the Commission, or other body having jurisdiction, changes and revisions of any effective rate schedule(s), or to propose, file, and make effective superseding rate schedules, for the purpose of changing the rate, charges, and other provisions thereof effective as to Shipper. Nothing herein contained shall be construed to deny Shipper any rights it may have under applicable law, including the right to participate fully in rate proceedings by intervention or otherwise to contest increased rates in whole or in part.

## ARTICLE III

### Term of Agreement

This Agreement shall be effective upon the date hereof. Service hereunder shall commence \_\_\_\_\_ ("Commencement Date") and continue in effect for a [primary] term ending \_\_\_\_\_. [, and shall continue in effect thereafter unless and until terminated by either Shipper or Transporter upon \_\_\_\_\_ months advance written notice specifying as the termination date the expiration of the primary term or any anniversary thereof]. As of the Commencement Date, Transporter will stand ready to provide storage service for Shipper pursuant to the terms of this Agreement, and Shipper shall be responsible for all charges hereunder, notwithstanding the status of any facilities being constructed by others to provide upstream or downstream transportation of gas to be stored hereunder.

{In general, the bracketed language shall be included in agreements with a term of one (1) year or longer, except for service agreements for capacity available only during an Interim Period under Section 14.5 of the General Terms and Conditions and service agreements for capacity available on a limited-term basis up to the in-service date of an expansion projects under Section 17 of the General Terms and Conditions. In general, the notice period to be inserted shall be six (6) months where the primary term is two (2) years or less, and twelve (12) months where the primary term is more than two (2) years. Transporter and Shipper may agree on a not unduly discriminatory basis to include the bracketed language in shorter-term agreements or to different notice or evergreen periods.}

[Any agreement pursuant to the first sentence of Section 15.1 of the General Terms and Conditions shall appear at this point].

#### ARTICLE IV

##### Regulatory Approval

Performance under this Agreement by Transporter and Shipper shall be contingent upon Transporter receiving all necessary regulatory or other governmental approvals upon terms satisfactory to Transporter. Should Transporter be denied such approvals to provide the service contemplated herein or construct and operate any necessary facilities therefor upon the terms and conditions requested in the application therefor or other terms and conditions acceptable to Transporter, then Transporter's and Shipper's obligations hereunder shall terminate.

#### ARTICLE V

##### Incorporation by Reference of Tariff Provisions

To the extent not inconsistent with the terms and conditions of this Agreement, the provisions of Rate Schedule FSNN, or any effective superseding rate schedule or otherwise applicable rate schedule, including any provisions of the General Terms and Conditions incorporated therein, and any revisions thereof that may be made effective hereafter are hereby made applicable to and a part hereof by reference.

#### ARTICLE VI

##### Miscellaneous

1. No change, modification or alteration of this Agreement shall be or become effective until executed in writing by the parties hereto, and no course of dealing between the parties shall be construed to alter the terms hereof, except as expressly stated herein.

2. No waiver by any party of any one or more defaults by the other in the performance of any provisions of this Agreement shall operate or be construed as a waiver of any other default or defaults, whether of a like or of a different character.

3. Any company which shall succeed by purchase, merger or consolidation of the gas related properties, substantially as an entirety, of Transporter or of Shipper, as the case may be, shall be entitled to the rights and shall be subject to the obligations of its predecessor in title under this Agreement. Either party may, without relieving itself of its obligations under this Agreement, assign any of its rights hereunder to a company with which it is affiliated, but otherwise, no assignment of this Agreement or of any of the rights or obligations hereunder shall be made unless there first shall have been obtained the consent thereto in writing of the other party. Consent shall not be unreasonably withheld.

4. Except as herein otherwise provided, any notice, request, demand, statement or bill provided for in this Agreement, or any notice which either party may desire to give the other, shall be in writing and shall be considered as duly delivered when mailed by registered mail, or certified mail, or sent by UPS, FedEx or equivalent form of delivery that requires signature upon receipt to the Post Office address of the parties hereto, as the case may be, as follows:

Transporter: Empire Pipeline, Inc.  
Attn: Empire Contract Administration Department  
6363 Main Street  
Williamsville, New York 14221

Shipper:

or at such other address as either party shall designate by formal written notice. Routine communications, including monthly statements, shall be considered as duly delivered when mailed by either registered, certified, or ordinary mail, electronic communication, or telecommunication.

5. Transporter shall proceed with due diligence to obtain such governmental and other regulatory authorizations as may be required for the rendition of the services contemplated herein, provided that Transporter reserves the right to file and prosecute applications for such authorizations, any supplements or amendments thereto and, if necessary, any court review, in such manner as it deems to be in its best interest, including the right to withdraw the application or to file pleadings and motions (including motions for dismissal).

6. This Agreement and the respective obligations of the parties hereunder are subject to all present and future valid laws, orders, rules and regulations of constituted authorities having jurisdiction over the parties, their functions or gas supply, this Agreement or any provision hereof. Neither party shall be held in default for failure to perform hereunder if such failure is due to compliance with laws, orders, rules or regulations of any such duly constituted authorities.

7. The subject headings of the articles of this Agreement are inserted for the purpose of convenient reference and are not intended to be a part of the Agreement nor considered in any interpretation of the same.

8. No presumption shall operate in favor of or against either party hereto as a result of any responsibility either party may have had for drafting this Agreement.

**9. THE INTERPRETATION AND PERFORMANCE OF THIS AGREEMENT SHALL BE IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK, WITHOUT RECOURSE TO THE LAW REGARDING THE CONFLICT OF LAWS.**

10. The Parties' obligations hereunder are not subject to the availability of transportation services upstream and downstream of Transporter's system. Shipper assumes all responsibility for the arrangement of any such upstream and downstream service.

11. It is expressly agreed that there is no Third Party Beneficiary of this Agreement, and that the provisions of this Agreement and the General Terms and Conditions do not impart enforceable rights in anyone who is not a party or successor or assignee of any party to this Agreement.

12. This Agreement and any amendments thereto may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Agreement. The Parties agree that a facsimile, email or other electronic version of the Agreement,



when properly executed, shall be considered for all purposes and original document, and a signed and binding Agreement.

[13. This Agreement supersedes and cancels the following contract(s) between the Parties as of \_\_\_\_\_.]

[14. - 15.] [If service is provided under Subpart 284B of the Commission’s regulations, a reference thereto would be inserted here.]

[Where Transporter and Shipper agree that their service agreement will be subject to the provisions of Section 15 of the General Terms and Conditions, the following provisions will be inserted:

Transporter and Shipper agree that this Agreement shall be treated as a Qualifying Agreement for purposes of Section 15 of the General Terms and Conditions.]

[Any restrictions on a shipper’s right of first refusal resulting from a limitation on acquired capacity, pursuant to Section 13(c) of the General Terms and Conditions, shall be inserted here]

[If Transporter and Shipper have entered into credit and/or reimbursement agreements in connection with a facility construction project, a cross-reference may appear here.]

The parties hereto have caused this Agreement to be signed by their duly authorized personnel the day and year first above written.

EMPIRE PIPELINE, INC.  
(Transporter)

Signature: \_\_\_\_\_

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

Title: \_\_\_\_\_

(Shipper)

Signature: \_\_\_\_\_

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

Title: \_\_\_\_\_

**FORM OF SERVICE AGREEMENT  
(ISS Service)**

AGREEMENT made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between **EMPIRE PIPELINE, INC.**, a New York corporation, hereinafter called “Transporter,” and \_\_\_\_\_, a \_\_\_\_\_, hereinafter called “Shipper.” (Transporter and Shipper may be referred to individually as a “Party” and collectively as the “Parties”.)

WITNESSETH: That in consideration of the mutual covenants herein contained, the parties hereto agree that Transporter will store natural gas for Shipper during the term, at the rates and on the terms and conditions hereinafter provided.

ARTICLE I

Quantities

Subject to the provisions of Transporter’s ISS Rate Schedule, Transporter agrees to cause to be injected into storage for Shipper’s account, store, and withdraw from storage, quantities of natural gas as follows:

Maximum Storage Quantity (MSQ) of \_\_\_\_\_ Dekatherms (Dth)  
Maximum Injection Quantity (MDIQ) of \_\_\_\_\_ Dth  
Maximum Withdrawal Quantity (MDWQ) of \_\_\_\_\_ Dth

ARTICLE II

Rate

Unless otherwise mutually agreed in a written amendment to this Agreement, for the service provided by Transporter hereunder, Shipper shall pay Transporter the maximum rate provided under Rate Schedule ISS set forth in Transporter’s effective FERC Gas Tariff.

In the event that Transporter places on file with the Federal Energy Regulatory Commission (“Commission”) another rate schedule which may be applicable to transportation service rendered hereunder, then Transporter, at its option, may from and after the effective date of such rate schedule, utilize such rate schedule in performance of this Agreement. Such a rate schedule(s) or superseding rate schedule(s) and any revisions thereof which shall be filed and become effective shall apply to and be a part of this Agreement. Transporter shall have the right to propose, file and make effective with the Commission, or other body having jurisdiction, changes and revisions of any effective rate schedule(s), or to propose, file, and make effective superseding rate schedules, for the purpose of changing the rate, charges, and other provisions thereof effective as to Shipper. Nothing herein contained shall be construed to deny Shipper any rights it may have under applicable law, including the right to participate fully in rate proceedings by intervention or otherwise to contest increased rates in whole or in part.

### ARTICLE III

#### Term of Agreement

This Agreement shall be effective upon the date hereof. Service hereunder shall commence \_\_\_\_\_ (“Commencement Date”) and continue in effect for a [primary] term ending \_\_\_\_\_. [, and shall continue in effect thereafter unless and until terminated by either Shipper or Transporter upon \_\_\_\_\_ months advance written notice specifying as the termination date the expiration of the primary term or any anniversary thereof]. As of the Commencement Date, Transporter will stand ready to provide storage service for Shipper pursuant to the terms of this Agreement, and Shipper shall be responsible for all charges hereunder, notwithstanding the status of any facilities being constructed by others to provide upstream or downstream transportation of gas to be stored hereunder.

{In general, the bracketed language shall be included in agreements with a term of one (1) year or longer. In general, the notice period to be inserted shall be six (6) months where the primary term is two (2) years or less, and twelve (12) months where the primary term is more than two (2) years. Transporter and Shipper may agree on a not unduly discriminatory basis to include the bracketed language in shorter-term agreements or to different notice or evergreen periods.}

### ARTICLE IV

#### Receipt and Delivery Points

The Point(s) of Receipt for all gas that may be received for Shipper’s account for transportation by Transporter shall be:

The Point(s) of Delivery for all gas to be delivered by Transporter for Shipper’s account shall be:

### ARTICLE V

#### Regulatory Approval

Performance under this Agreement by Transporter and Shipper shall be contingent upon Transporter receiving all necessary regulatory or other governmental approvals upon terms satisfactory to Transporter. Should Transporter be denied such approvals to provide the service contemplated herein or construct and operate any necessary facilities therefor upon the terms and conditions requested in the application therefor or other terms and conditions acceptable to Transporter, then Transporter’s and Shipper’s obligations hereunder shall terminate.

### ARTICLE VI

#### Incorporation by Reference of Tariff Provisions

To the extent not inconsistent with the terms and conditions of this Agreement, the provisions of Rate Schedule ISS, or any effective superseding rate schedule or otherwise applicable rate schedule, including any provisions of the General Terms and Conditions incorporated therein, and any revisions thereof that may be made effective hereafter are hereby made applicable to and a part hereof by reference.

## ARTICLE VI

### Miscellaneous

1. No change, modification or alteration of this Agreement shall be or become effective until executed in writing by the parties hereto, and no course of dealing between the parties shall be construed to alter the terms hereof, except as expressly stated herein.

2. No waiver by any party of any one or more defaults by the other in the performance of any provisions of this Agreement shall operate or be construed as a waiver of any other default or defaults, whether of a like or of a different character.

3. Any company which shall succeed by purchase, merger or consolidation of the gas related properties, substantially as an entirety, of Transporter or of Shipper, as the case may be, shall be entitled to the rights and shall be subject to the obligations of its predecessor in title under this Agreement. Either party may, without relieving itself of its obligations under this Agreement, assign any of its rights hereunder to a company with which it is affiliated, but otherwise, no assignment of this Agreement or of any of the rights or obligations hereunder shall be made unless there first shall have been obtained the consent thereto in writing of the other party. Consent shall not be unreasonably withheld.

4. Except as herein otherwise provided, any notice, request, demand, statement or bill provided for in this Agreement, or any notice which either party may desire to give the other, shall be in writing and shall be considered as duly delivered when mailed by registered mail, or certified mail, or sent by UPS, FedEx or equivalent form of delivery that requires signature upon receipt to the Post Office address of the parties hereto, as the case may be, as follows:

Transporter: Empire Pipeline, Inc.  
Attn: Empire Contract Administration Department  
6363 Main Street  
Williamsville, New York 14221

Shipper:

or at such other address as either party shall designate by formal written notice. Routine communications, including monthly statements, shall be considered as duly delivered when mailed by either registered, certified, or ordinary mail, electronic communication, or telecommunication.

5. Transporter shall proceed with due diligence to obtain such governmental and other regulatory authorizations as may be required for the rendition of the services contemplated herein, provided that Transporter reserves the right to file and prosecute applications for such authorizations, any supplements or amendments thereto and, if necessary, any court review, in such manner as it deems to be in its best interest, including the right to withdraw the application or to file pleadings and motions (including motions for dismissal).

6. This Agreement and the respective obligations of the parties hereunder are subject to all present and future valid laws, orders, rules and regulations of constituted authorities having jurisdiction over the parties, their functions or gas supply, this Agreement or any provision hereof. Neither party shall be held in default for failure to perform hereunder if such failure is due to compliance with laws, orders, rules or regulations of any such duly constituted authorities.

7. The subject headings of the articles of this Agreement are inserted for the purpose of convenient reference and are not intended to be a part of the Agreement nor considered in any interpretation of the same.

8. No presumption shall operate in favor of or against either party hereto as a result of any responsibility either party may have had for drafting this Agreement.

**9. THE INTERPRETATION AND PERFORMANCE OF THIS AGREEMENT SHALL BE IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK, WITHOUT RECOURSE TO THE LAW REGARDING THE CONFLICT OF LAWS.**

10. The Parties' obligations hereunder are not subject to the availability of transportation services upstream and downstream of Transporter's system. Shipper assumes all responsibility for the arrangement of any such upstream and downstream service.

11. It is expressly agreed that there is no Third Party Beneficiary of this Agreement, and that the provisions of this Agreement and the General Terms and Conditions do not impart enforceable rights in anyone who is not a party or successor or assignee of any party to this Agreement.

12. This Agreement and any amendments thereto may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Agreement. The Parties agree that a facsimile, email or other electronic version of the Agreement, when properly executed, shall be considered for all purposes an original document, and a signed and binding Agreement.

[13. This Agreement supersedes and cancels the following contract(s) between the Parties as of \_\_\_\_\_.]

[14. If service is provided under Subpart 284B of the Commission's regulations, a reference thereto would be inserted here.]

The parties hereto have caused this Agreement to be signed by their duly authorized personnel the day and year first above written.

**EMPIRE PIPELINE, INC.**  
(Transporter)

Signature: \_\_\_\_\_

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

Title: \_\_\_\_\_

(Shipper)

Signature: \_\_\_\_\_

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

Title: \_\_\_\_\_