

Cold Lake Pipeline Limited Partnership

COLD LAKE PIPELINE

TARIFF

(No. 200)

RULES AND REGULATIONS

GOVERNING THE

GATHERING AND TRANSPORTATION

OF

CRUDE PETROLEUM

BY

PIPELINE

GENERAL APPLICATION

The rules and regulations published herein apply only under toll schedules making specific reference by number to this Tariff; such reference will include supplements hereto and successive issues hereof. Specific rules and regulations published in individual toll schedules or Contracts will take precedence over these rules and regulations. These rules and regulations apply to all Shippers using Carrier's system and by Tendering Petroleum by or on behalf of a Shipper to Carrier's system or by delivering a Notice of Shipment to Carrier, each Shipper accepts these rules and regulations as a legally binding contract made among each Shipper, Carrier and each of Carrier's other Shippers on the terms contained herein and as they may be amended in any subsequent revisions which are, from time to time, issued by Carrier and notice of which is given to Shippers.

EFFECTIVE: October 5, 2000

Issued: December 1, 2004 by

Cold Lake Pipeline Limited Partnership

2600, 237 – 4th Avenue S.W.
Calgary, Alberta T2P 4K3

ARTICLE 1 DEFINITIONS

This Tariff between Shipper and Carrier is subject to any contrary or inconsistent provisions in the associated Contract. Except where the context expressly states another meaning, the following terms, when used in this Tariff or in any Contract or the Petroleum Toll Schedule into which this Tariff is incorporated, shall be construed to have the following meanings:

- 1.1 **"API"** means American Petroleum Institute.
- 1.2 **"ASTM"** means American Society for Testing and Materials.
- 1.3 **"barrels"** or **"bbls"** means a volume equivalent to 0.158987 cubic metres (m³) at a temperature of fifteen degrees Celsius (15°C) and at a pressure of 101.325 kiloPascals (kPa) absolute.
- 1.4 **"Business Day"** means any Day other than: (i) a Saturday or Sunday; or (ii) a Day on which the banks in the Province of Alberta are closed.
- 1.5 **"Carrier"** means Cold Lake Pipeline Limited Partnership.
- 1.6 **"Contract"** means a transportation service agreement executed by Carrier and a Shipper.
- 1.7 **"Cubic Metre"** (m³) means the volume of Petroleum which occupies one cubic metre when such Petroleum is at a temperature of fifteen degrees Celsius (15°C) and at a pressure of 101.325 kiloPascals absolute and equals 6.2898108 barrels, under the same conditions.
- 1.8 **"Day"** means a period of 24 consecutive hours, beginning and ending at 7:00 a.m. Mountain Standard Time. The reference date for any Day shall be the calendar date upon which the 24 hour period commences.
- 1.9 **"Delivery Point"** means a location on Carrier's system at which Carrier has facilities to permit the Delivery of Petroleum.
- 1.10 **"Deliver"** and any derivative thereof, means delivered by Carrier to Shipper at a Delivery Point
- 1.11 **"Enbridge"** means Enbridge Pipelines Inc. or its successors or assignees.
- 1.12 **"Enbridge Reference Temperature"** means for any period, the control temperature used by Enbridge to determine the viscosity of crude oil received to pump in the Enbridge system for such period, as published by Enbridge from time to time.
- 1.13 **"EUB"** means the Alberta Energy and Utilities Board or any successor agency performing substantially similar functions with respect to pipelines within the Province of Alberta.
- 1.14 **"Governmental Authority"** means any judicial, legislative, administrative or other national, provincial, municipal or local governmental authority, ministry, department, any administrative agency, office, organization or authority having jurisdiction over the Parties or Carrier's system.
- 1.15 **"Gross Standard Volume"** means the volume of Petroleum measured in Cubic Metres in accordance with standards established by API/ASTM.

- 1.16 **"kiloPascal"** (kPa) is equivalent to 0.1450377 pounds per square inch (psi).
- 1.17 **"Month"** means the period beginning at the first Day of a calendar month and ending at the start of the first Day of the next succeeding calendar month.
- 1.18 **"Monthly Nomination Date"** means the date specified by Carrier from time to time which in no event shall be later than 7:00 a.m. Mountain Standard Time on the date which will coincide with the nomination schedule of Enbridge.
- 1.19 **"Monthly Volume"** for any Month means the product of the Gross Standard Volume of Petroleum specified by a Shipper in a Contract and the number of Days in that Month.
- 1.20 **"Net Standard Volume"** means the Gross Standard Volume minus the sediment and water component determined in accordance with standards developed by API.
- 1.21 **"Nomination"** and any derivative thereof, means for a Month the total volume of Petroleum specified in the Notice of Shipment.
- 1.22 **"Notice of Shipment"** means the form prescribed by Carrier to be used by Shippers in notifying Carrier of proposed Tenders, as such form may be amended from time to time.
- 1.23 **"Party"** and any derivative thereof means Carrier or a Shipper.
- 1.24 **"Payment Due Date"** means the 25th Day of a Month in which Carrier issues an invoice pursuant to Section 8.1, provided that if such Day is not a Business Day, then the Payment Due Date will be the immediately following Business Day.
- 1.25 **"Person"** means a natural person, firm, trust, partnership, corporation or Governmental Authority.
- 1.26 **"Petroleum"** means the liquid product of oil wells, oil processing plants, oil sands, natural gas condensates or a mixture of such products, but does not include natural gas or any products with a vapour pressure in excess 103 kPa absolute at 37.8 degrees Celsius (37.8°C).
- 1.27 **"Petroleum Toll Schedule"** means the schedule of tolls published by Carrier from time to time.
- 1.28 **"Prime Rate"** means the rate of interest, expressed as a rate per annum, which is used by the Royal Bank of Canada, Main Branch, Calgary, Alberta as a reference rate for purposes of determining rates of interest charged by it on Canadian dollar commercial demand loans made by it in Canada which is quoted by such bank, from time to time, as its "prime rate".
- 1.29 **"Receipt Point"** means a location on Carrier's system at which Carrier has facilities to permit Shipper to Tender Petroleum.
- 1.30 **"Shipper"** means a Person who contracts for transportation service on Carrier's system.
- 1.31 **"Tariff"** means the terms and conditions contained herein and the Petroleum Toll Schedule, all as amended from time to time.
- 1.32 **"Tender"** and any derivative thereof, means the delivery by a Shipper to Carrier at a Receipt Point of a stated quantity and type of Petroleum for transportation from such Receipt Point to a Delivery Point.
- 1.33 **"Working Stock"** means the volume of Petroleum required by Carrier for operational and scheduling purposes as determined by and specified from time to time by Carrier.

**ARTICLE 2
COMMODITY**

- 2.1 The Tariff covers the transportation of Petroleum by Carrier and no commodity other than Petroleum will be transported under the Tariff.

**ARTICLE 3
ORIGIN AND DESTINATION**

- 3.1 **Acceptance and Delivery** Petroleum will be accepted for transportation only when Tendered pursuant to Article 6 at a Receipt Point and Nominated for Delivery to the Shipper or its consignee at one or more Delivery Points.
- 3.2 **Delivery Facilities** Petroleum will be accepted for transportation only when Shipper has provided or made arrangements for the necessary facilities and/or transportation service satisfactory to Carrier at the named Delivery Point for handling the Petroleum at the rate of flow at which Carrier is then operating its system at such Delivery Point.
- 3.3 **Receipt Facilities** Petroleum will be accepted for transportation only at a Receipt Point and at a pressure and rate of flow satisfactory to Carrier.

**ARTICLE 4
QUALITY**

- 4.1 **Permitted Petroleum** Only that Petroleum having properties which are compatible with the specifications of Petroleum described in Section 4.2 will be permitted in Carrier's system. Shipper will not Tender and Carrier will have no obligation to accept for transportation, any Petroleum which does not meet said specifications of Petroleum.
- 4.2 **Specifications of Petroleum** Petroleum with any of the following specifications shall not be accepted for Tender under normal operating conditions, namely:
- (a) having a vapour pressure in excess of one hundred and three kiloPascals (103 kPa) at thirty seven point eight degrees Celsius (37.8°C) determined in accordance with ASTM D323;
 - (b) containing sediment and water, in excess of one-half of one percent (0.5%) of volume as determined by the centrifuge method in accordance with ASTM D96/API 2542 standards or by any other tests as may be established by Carrier and Shippers in accordance with Section 4.3;
 - (c) having at the Receipt Point a temperature greater than forty five degrees Celsius (45°C) unless otherwise agreed to by Carrier;
 - (d) having at the Receipt Point a temperature less than five degrees Celsius (5°C) unless otherwise agreed to by Carrier;
 - (e) having at the Receipt Point a density in excess of nine hundred and forty kilograms per Cubic Metre (940 kg/m³) at fifteen degrees Celsius (15°C) determined in accordance with ASTM D1298 unless otherwise agreed to by Carrier;
 - (f) having a kinematic viscosity in excess of 350 centistokes (cSt), defined as 350 square millimetres per second (350 mm²/s), determined in accordance with ASTM D445 at the

lower of the temperature of such Petroleum or the Enbridge Reference Temperature unless otherwise agreed to by Carrier;

- (g) having any organic chlorides, sulphurs, organisms or other compounds with physical, biological or chemical characteristics that may render such Petroleum not readily transportable by Carrier, that may materially affect the quality of other Petroleum transported by Carrier or that may otherwise cause disadvantage to Carrier unless arrangements for their mitigation have been arranged for between Carrier and any Shipper Tendering Petroleum containing such contaminants; and
- (h) containing sand, dust, dirt, gums, impurities or other objectionable substances which may be injurious to Carrier, objectionable to downstream carriers or Governmental Authorities or may interfere with the measurement or transportation of Petroleum under this Tariff.

4.3 **Specification Change Guidelines** Notwithstanding Section 4.2, Carrier shall have the right to make any reasonable change to the specifications under Section 4.2, from time to time to comply with requirements of downstream carriers, to ensure measurement accuracy and to protect Carrier's personnel, capacity, pipeline, tankage and equipment by issuing revised specifications. All such changes shall be approved by Shippers representing: (i) a majority of the prior 12 Month average Deliveries of Petroleum on Carrier's system; and (ii) a majority of the number of Shippers. Such approval not to be unreasonably withheld.

4.4 **Failure to Conform to Specifications** If Carrier determines that a Shipper does not comply with the provisions of Section 4.2, as it may be amended, then such Shipper shall at its sole cost and expense remove its Petroleum from Carrier's system as directed by Carrier acting reasonably.

4.5 **Failure to Remove Objectionable Petroleum** If a Shipper fails to remove its Petroleum from Carrier's system in accordance with the provision of Section 4.4, then Carrier shall have the right to remove and sell such Petroleum in such manner as described in Section 8.4. Carrier shall pay from the proceeds of such sale all costs incurred by Carrier with respect to the storage, removal and sale of such Petroleum and Carrier shall be entitled to retain a reasonable pre-estimate of any damages, costs, expenses and other damages, costs and expenses incurred or anticipated to be incurred by Carrier in respect of such objectionable matter. The remainder of such proceeds, if any, shall be paid by Carrier to such Shipper. Carrier may take such further action and remedies as it deems appropriate to lessen or mitigate any adverse impact to Carrier's system.

ARTICLE 5 SEGREGATION AND CHANGES IN QUALITY

5.1 **Delivery of Types of Petroleum** Carrier shall endeavor to deliver substantially the same type and quality of Petroleum as that received from a Shipper; provided that Carrier shall not be obligated to make delivery of the identical Petroleum received by Carrier.

5.2 **Alteration of Quality** Petroleum Tendered for transportation will be received by Carrier only on the condition that it shall be subject to such changes in density or quality while in transit as may result from the transportation thereof, or the mixture of said Petroleum with other Petroleum in Carrier's system. Carrier shall not be liable for any consequential loss or damage resulting from an alteration in density or other quality of Petroleum transported by Carrier. Carrier shall use all reasonable effort to ensure that no new type or quality of Petroleum degrades the Petroleum of existing Shippers.

5.3 **Segregated Movement** Notwithstanding the provisions of Section 5.2, if the Petroleum to be Tendered by a Shipper is of a type or quality, as identified by Carrier, not being currently

transported on Carrier's system, but subject to such Petroleum meeting the standards set out in Article 4, Carrier may, as operating conditions permit, at the request of such Shipper, attempt to make Delivery of substantially the same type and quality of Petroleum at the Delivery Point. Carrier's obligation to accept Tenders of Petroleum of a type or quality not currently being transported on Carrier's system will be subject to the availability of Carrier's compatible receipt and delivery tankage as determined by Carrier in its sole discretion.

- 5.4 **Facilities Used for Segregated Service.** Should the need arise to provide segregated service due to Petroleum quality, then the Shipper or Shippers whose Petroleum gives rise to the need for the segregated service will pay the incremental capital and operating costs to provide that service.

ARTICLE 6 TENDERS, QUANTITIES AND TRANSFERS

- 6.1 **Monthly Nominations** On or before Carrier's scheduled Monthly Nomination Date, Shipper shall provide Carrier with a Nomination for the following Month on the prescribed Notice of Shipment showing the volume of Petroleum to be shipped for the following Month, the Receipt Point, the Delivery Point and type of Petroleum. If a Shipper fails to Nominate any volumes, the Shipper's Monthly Nomination will be deemed to be zero. When curtailments occur pursuant to Section 13.1, Shipper shall be deemed to have submitted a Monthly Nomination equal to its Monthly Nomination reduced proportionately by the level of curtailment. A Shipper shall, upon notice from Carrier, also provide written third party verification of the availability of its supply of Petroleum and of its capability to remove such Petroleum from any Delivery Point as may be required by Carrier in support of such Shipper's Nomination. Carrier shall not be obligated to accept a Shipper's Nomination where such verification is, in the sole discretion of Carrier, unacceptable to Carrier.
- 6.2 **Tenders** A Shipper desiring to Tender Petroleum for transportation shall make its Tenders in accordance with Carrier's established Tendering process. If a Shipper is unable to remove from the Delivery Point the volume of Petroleum Tendered, Carrier may reduce the amount of Petroleum accepted from Shipper for transportation to the amount which Shipper has verified it will be able to remove from the Delivery Point.
- 6.3 **Late Nominations** If space is available and operating conditions permit, Carrier may, at its discretion, accept Nominations or revised Nominations after Carrier's scheduled Monthly Nomination Date, provided that all Shippers are made aware of the available capacity and have an opportunity to Nominate for it.
- 6.4 **Working Stock** Each Shipper will provide its prorata share of Working Stock required for operation of Carrier's system. The prorata calculation will be based on a Shipper's relative share of Tenders into the line segment in question for the previous Month.
- 6.5 **Other Shippers** Each Shipper party to a Contract with a term of one year or less shall in each Month Tender to Carrier a volume of Petroleum equal to its Nomination for that Month. Such Shipper shall pay to Carrier an amount equal to the product of the toll for uncommitted volumes as set out in the Petroleum Toll Schedule and a volume equal to the greater of: (i) the volume of Petroleum Tendered; or (ii) ninety-five percent (95%) of Shipper's Nomination.
- 6.6 **Uniform Tenders** Each Shipper shall endeavor to Tender its Nomination of Petroleum to Carrier in equal daily quantities over each Month. Carrier will normally accept Tenders at a Receipt Point at an hourly flow rate not exceeding one hundred twenty percent (120%) of the Nomination for such Receipt Point divided by the number of Days in the applicable Month divided by twenty four (24) hours.

- 6.7 **Delivery Flow Rates and Volumes** Carrier will make full stream deliveries of Petroleum at Delivery Points at flow rates and volumes compatible with Carrier's system operations, provided that Carrier will Deliver Petroleum at a pressure not lower than 150 kPa. Carrier will provide a Shipper with the forecast flow rates at any Delivery Point upon request.
- 6.8 **Requested Changes by Shipper** Carrier may, upon written request of a Shipper following such Shipper's Tender, allow such Shipper to transfer its control over a shipment to another Shipper provided that the successor Shipper: (i) satisfies the Financial Assurances requirement specified in Section 19; and (ii) assumes all obligations of the predecessor Shipper under the Tariff as of the time Carrier approves the transfer.
- 6.9 **Batch Size** A Tender for segregated Delivery in any Month will be accepted only when the total quantity covered thereby will be Tendered to Carrier at a Receipt Point for transportation within said Month in quantities and at times to be specified or accepted by Carrier. Carrier will not be required to accept a Tender of Petroleum in a batch size of less than eight thousand Cubic Metres (8,000 m³) (50,300 bbls). Carrier may accept a Tender of Petroleum in a batch size of less than eight thousand Cubic Metres (8,000 m³) (50,300 bbls) when operating circumstances permit and space is available, provided that in no event will Carrier undertake to make a single batch Delivery of less than eight thousand Cubic Metres (8,000 m³) (50,300 bbls). A single batch Delivery is a Delivery in one continuous operation into a single facility to which Carrier's system is connected.
- 6.10 **New Stream** Each Shipper shall provide Carrier at least eighteen (18) Months notice in advance, or such shorter period as may be agreed to by Pipeline, with information respecting the estimated commencement date, the volume and the quality of Petroleum to be Tendered by such Shipper: (i) with respect to any Petroleum from a new production facility; or (ii) with respect to any Petroleum from an existing production facility with a substantially changed quality. Carrier shall provide Shippers with written notice at least eighteen (18) Months in advance of the date that such Petroleum production is expected to be Tendered to Carrier's system if such production is to be Delivered as a fungible stream.

ARTICLE 7 APPLICATION OF TOLLS

- 7.1 **Effective Tolls** Petroleum accepted for transportation shall be subject to the tolls in effect on the date of Tender of such Petroleum by a Shipper to Carrier, irrespective of the date of Nomination or Delivery.
- 7.2 **Toll Attribution** The tolls charged to a Shipper shall be allocated as to volume of Petroleum and type of Petroleum, when there is a cost of differentiation, in accordance with the Tariff.

ARTICLE 8 PAYMENT OF TARIFF CHARGES AND LIEN FOR UNPAID CHARGES

- 8.1 Shipper shall pay to Carrier all charges and tolls as provided in the Tariff for the previous Month's Tendered volume of Petroleum on or before the Payment Due Date. By the tenth (10th) Day of a Month, or such other date as the information is available according to the Alberta Petroleum Marketing Commission's published schedule, Carrier will provide Shipper a Monthly invoice detailing: (i) the tolls payable to Carrier pursuant to the Tariff for Shipper's Tenders and Contract obligations, if applicable, during the previous Month; and (ii) any other charges for which Shipper is liable under the Tariff or Shipper's other obligations.
- 8.2 In addition to any other remedies available to Carrier at law, in equity, or under the Tariff, Carrier shall have a lien on all Petroleum in its possession belonging to a Shipper to secure the payment

of any and all unpaid transportation or other lawful charges that are due Carrier, and unpaid by such Shipper, and Carrier may withhold such Petroleum from Delivery until all unpaid charges have been paid.

- 8.3 Should a Shipper fail to pay all of the amount of any invoice as herein provided, on or before the Payment Due Date, interest on the unpaid portion of the invoice accrues daily at a rate of interest per annum equal to the Prime Rate plus four percent (4%) and the principal and accrued interest to date shall be payable and due immediately upon demand. If such failure to pay continues for ten (10) days after the Payment Due Date, Carrier, in addition to any other remedy it may have under the Tariff, at law, or in equity, may suspend further receipt of Petroleum from such Shipper until such amount is paid or terminate the Contract; provided that if a Shipper in good faith disputes the amount of any such invoice or part thereof and pays to Carrier such amounts as it concedes to be correct and at any time thereafter within twenty (20) days of a demand made by Carrier furnishes good and sufficient financial assurances guaranteeing payment to Carrier of the amount ultimately found due upon such invoice after a final determination reached either by agreement, arbitration or judgment of the courts, as may be the case, then Carrier shall not be entitled to suspend further receipt of Petroleum from such Shipper because of such non-payment unless and until default be made in the conditions of financial assurances.
- 8.4 If said amounts remain unpaid ten (10) days after notice and demand therefor, Carrier shall have the right to sell any Petroleum of the Shipper which is then in the custody of Carrier or otherwise traceable and alienable by Carrier, at public auction from any office of Carrier on any Business Day, provided that the auction takes place not less than forty-eight (48) hours after publication of notice of such sale in a daily newspaper of general circulation published in the area of the proposed sale, stating the time, place of sale, quantity and location of Petroleum to be sold. Shipper covenants and agrees not to dispose of its Petroleum other than subject to the lien afforded Carrier hereby. At said sale Carrier shall have the right to bid and, if the highest bidder, to become the purchaser. From the proceeds of said sale Carrier will deduct the transportation and all other lawful charges, including reasonable storage charges pending sale and expenses incident to said sale, and the balance remaining, if any, shall be held in trust for whomever may be lawfully entitled thereto, without the obligation to pay interest thereon. Any such funds may be commingled in any other account or accounts maintained by Carrier from time to time.

ARTICLE 9 DELIVERY AND ACCEPTANCE

- 9.1 Carrier will transport Petroleum with reasonable diligence and dispatch and Shipper shall accept and remove its shipment from the facilities of Carrier upon Delivery of the Petroleum.
- 9.2 If Shipper fails to remove its Petroleum from the facilities or custody of Carrier upon Carrier's Delivery at a Delivery Point, then Carrier shall have the right to remove and sell such Petroleum in such manner as described in Section 8.4. Carrier shall pay from the proceeds of such sale all costs incurred by Carrier with respect to the storage, removal and sale of such Petroleum. The remainder of such proceeds, if any, shall be held by Carrier for the Shipper and any other party lawfully entitled to such proceeds.

ARTICLE 10 LIABILITY OF SHIPPER

- 10.1 If the failure by a Shipper to remove Petroleum from Carrier's facilities at a Delivery Point causes disruption of Carrier's operations, such Shipper shall be solely responsible for all costs or losses to Carrier associated with such disruption, including loss of revenue resulting therefrom, unless

the non-removal of such Petroleum is due to the gross negligence of Carrier or results from an event of Force Majeure.

- 10.2 Shipper shall indemnify Carrier for any damage, loss, costs or consequential loss incurred by Carrier or any other party as a result of such Shipper's failure to comply with any provision of the Tariff, unless Shipper's failure to comply is due to the gross negligence of Carrier or an event of Force Majeure.
- 10.3 Shipper shall pay or cause to be paid any and all taxes, duties, charges, levies or any other assessments made or imposed by any Governmental Authority having jurisdiction with respect to the Petroleum to be transported by Carrier and shall indemnify and save harmless Carrier from any such taxes, duties, charges, levies or assessments so made or imposed.
- 10.4 Subject to the Force Majeure provisions hereunder, if a Shipper shall fail to perform any of the covenants or obligations imposed upon it under this Tariff, then in addition to any other remedies that Carrier may have hereunder, at law or in equity, Carrier may, at its option, suspend performance of its obligations to transport such Shipper's Petroleum within ten (10) Days of the continued failure to perform by proceeding as follows: Carrier shall cause a written notice to be served on such Shipper stating specifically the default under this Tariff; thereupon the Shipper in default shall have sixty (60) Days after the service of the aforesaid notice in which to remedy or remove the cause or causes stated in the default notice. If within the said sixty (60) Day period the Shipper in default does not remove or remedy said cause or causes, then Carrier may suspend performance of its obligations to such Shipper until the default is remedied.
- 10.5 No waiver by Carrier or a Shipper of any one or more defaults by the other in the performance of any provisions of the Tariff shall operate or be construed as a waiver of any continuing or future default or defaults, whether of a like or different character.
- 10.6 Each Shipper shall be separately responsible for its prorata share of physical losses or gains of Petroleum from a line segment resulting from normal pipeline operations including line losses and shrinkage. The prorata calculation will be based on a Shipper's relative share of Tenders into the line segment in question for the previous Month.

ARTICLE 11 LIABILITY OF CARRIER

- 11.1 Carrier shall not be liable to a Shipper for any loss, damage, consequential loss or damage, or delay caused by an event of Force Majeure, except where caused by its own gross negligence.
- 11.2 If damage to or loss of Petroleum results from any cause other than the gross negligence of Carrier, while Carrier is in possession or control of such Petroleum, then Carrier shall apportion the cost of such damage or loss on a pro rata basis among all Shippers using that line segment of Carrier's system. Each Shipper's share of such cost shall be determined by Carrier based on the proportion of the volume of such Shipper's Petroleum in such line segment in the possession of Carrier on the date of such loss to the total volume of Petroleum in the possession of Carrier in such line segment on the date of such loss.

ARTICLE 12 FORCE MAJEURE

- 12.1 If either Carrier or Shipper fails to perform any obligation under the Tariff due to an event of Force Majeure, then such failure shall be deemed not to be a breach of such obligations.

- 12.2 The term "Force Majeure," as employed herein shall mean:
- (a) any act of God, war, civil insurrection or disobedience, acts of public enemy, strikes, lockouts or other industrial disturbances, accidents, blockades, riots, epidemics, landslides, lightning, earthquakes, explosions, fires, floods, civil disturbances, the act, regulation, order, direction or requisition of any Governmental Authority
 - (b) any mechanical or equipment failure during the first 48 hours of such failure; or
 - (c) any other cause whether of the kind enumerated in subsections 12.2(a) or (b), or otherwise, which is beyond the reasonable control of the applicable Party and which could not have been prevented or overcome by the exercise of due diligence.
- 12.3 Notwithstanding Sections 12.1 and 12.2, the following shall not be events of Force Majeure:
- (a) insufficiency of Shipper's Petroleum supplies; or
 - (b) lack of funds; or
 - (c) Shipper's lack of takeaway capacity at the Delivery Point.
- 12.4 A Party that fails to perform any obligation under the Tariff where such failure is caused by an event of Force Majeure shall promptly remedy the cause of the Force Majeure insofar as it is reasonably able to do so, provided that the terms of the settlement of any strike, lockout or other industrial disturbance shall be wholly in the discretion of the Party claiming suspension of its obligations hereunder by reason thereof.
- 12.5 Notwithstanding Section 12.2 through Section 12.4, no event of Force Majeure shall:
- (a) relieve any Party from any obligation pursuant to the Tariff unless such Party gives notice with reasonable promptness of such event to the other Party; or
 - (b) relieve any Party from any obligation pursuant to the Tariff after the expiration of a reasonable period of time within which, by the use of its due diligence, such Party could have remedied or overcome the consequences of such event of Force Majeure.
- 12.6 No event of Force Majeure shall relieve any Shipper from its obligations pursuant to the Tariff to make payments to Carrier.

ARTICLE 13 APPORTIONMENT

- 13.1 Following the receipt by Carrier of all Nominations for a Month, Carrier shall determine the capacity available in that Month ("Available Capacity"). In the event that Nominations for the Month exceed Available Capacity, then, having regard to the operating conditions of Carrier's system and rights or limitations of individual Contracts, the Available Capacity shall be allocated by Carrier. Carrier may restrict or suspend Tenders in order to apportion capacity among all Shippers with due consideration given to the current operating conditions of Carrier's system and any priority accorded to any Shippers pursuant to Contracts. Subject to the foregoing, capacity will be allocated pro rata based on Nominations. Carrier will not be liable to a Shipper for costs due to such apportionment. Carrier will, on a reasonable efforts basis, endeavor to remove such restrictions as soon as practical in accordance with internal economic assessments and reasonably prudent industry practice.

**ARTICLE 14
PETROLEUM INVOLVED IN LEGAL DISPUTES**

- 14.1 Petroleum which is in any way subject to litigation, or the ownership of which may be in dispute, or which is subject to a lien or charge of any kind, may not be accepted for transportation unless and until the Shipper whose Petroleum is the subject of such litigation, dispute, lien or charge shall furnish a bond or other form of indemnity satisfactory to Carrier protecting Carrier against any liability or loss arising as a result of such litigation, dispute, lien or charge.

**ARTICLE 15
CLAIMS, SUITS AND TIME FOR FILING**

- 15.1 As a condition precedent to recovery, claims for loss, damage or delay in connection with the transportation of Petroleum Tendered for shipment under the Tariff must be submitted in writing to Carrier within thirty (30) Days after Delivery of the Petroleum, or, in the case of failure to make Delivery, then within thirty (30) Days after a reasonable time for Delivery has elapsed; and suits arising out of such claims must be instituted against Carrier within one hundred and eighty (180) Days from the date when notice in writing is given by Carrier to the claimant that Carrier has disallowed the claim or any part or parts thereof specified in the notice. Claims advanced beyond such one hundred eighty (180) Day period shall be null and void as between a Shipper and Carrier. In causing Petroleum to be transported under the Tariff, a Shipper agrees to be bound by the provisions of this clause and waive any rights which it might otherwise have, at common law, equity or otherwise, to make a claim after the expiration of said period of thirty (30) Days or to bring an action after the expiration of the said period of one hundred eighty (180) Days.

**ARTICLE 16
MEASUREMENTS**

- 16.1 The volumetric measurement base of all Petroleum referred to in each Contract shall be one (1) Cubic Metre (m³) expressed to the nearest one tenth (1/10) of a Cubic Metre at fifteen degrees Celsius (15°C) and 101.325 kiloPascals (kPa) absolute. Measurement shall be in accordance with the API Manual of Petroleum Measurement Standards unless specifically defined otherwise in this Tariff or if agreed to by all affected Parties, such agreement not be unreasonably withheld.
- 16.2 (a) All Petroleum transported by Carrier shall be measured and tested by a representative of Carrier. A Shipper may have a representative present at the measuring and testing. If tank tables are used, quantities will be computed from regularly compiled tank tables showing one hundred percent (100%) of the full capacity of the tanks.
- (b) Meters shall have the inherent capability to measure Petroleum with accuracy (reproducibility) of +/-0.25% and repeatability of .05% under normal operating conditions. All temperature measurement variables shall be accurate to within +/- 0.25°C of a certified standard. Temperature measuring devices shall have a test thermowell capable of containing a liquid fill located within 1 metre of the primary element to facilitate verification with a certified thermometer. All pressure measurement variables shall be accurate to within +/- 30 kPa of a certified standard. All density measurement variables shall be accurate to within +/- 3.0kg/m³ of a certified standard. All viscosity measurement variables shall be accurate to within +/- 5.0 cSt of a certified standard.
- (c) All meters shall be installed in accordance with the API Manual of Petroleum Measurement Standards, or the appropriate sections of any manual which replaces this standard. Where the meter installation is incapable of meeting the stated requirements, Carrier shall take remedial action to ensure achievement of the stated requirements by

taking actions including but not limited to: increased frequency of calibration or proving, upgrading of the existing meter, or replacement of meter and/or meter run.

- (d) Measurement instruments shall have provisions to be wire sealed in a manner which ensures measurement integrity. A Shipper and or Carrier shall have the right to install seals on any device to ensure measurement integrity. Prior to the removal of any seal, the Party which installed the seal shall notify the other Parties who Tender or Deliver Petroleum from or to any such device that the seal of such device is to be removed.
- (e) A Shipper shall have the right to install devices such as pressure transmitters, signal retransmitters or other signal monitoring devices at any Carrier site where its Petroleum is measured as Shipper may desire from time to time or on a permanent basis. Such installation shall be at the expense of the Shipper making the request.
- (f) If there is evidence of a measurement instrument malfunction in any measurement involving Petroleum Tendered or Delivered by or to a Shipper, then Carrier and the Shipper affected shall negotiate appropriate adjustments on the following basis:
 - (i) If, after verification procedures are completed, the meter or metering equipment is found to cause the volume to be in error not in excess of the reproducibility limit of +/-0.25% or transmitter or analyzer limits in subsection 16.2(b), previous quantities calculated by such equipment shall be considered correct but such equipment shall be adjusted at once to read accurately.
 - (ii) If, after verification procedures are completed, the meter or metering equipment is found to cause the volume to be in error by any amount greater than the reproducibility limit of +/-0.25% or transmitter or analyzer limits in subsection 16.2(b), then such equipment shall be adjusted at once to read accurately and any previous calculated volumes shall be corrected to zero error for any period during which such error is known definitely or is agreed upon to have occurred. Where the error period is not known definitely or agreed upon, such correction shall be for a period covering the last half of the time elapsed since the date of the last test. Carrier may resolve the re-work or adjustment by any of the following methods:
 - (1) other method as may be appropriate;
 - (2) recalculation and reallocation of volumes;
 - (3) calculation of net effects and gross redistribution of Petroleum by component or dollar value; or
 - (4) payment in kind.
 - (iii) Each Shipper affected by an adjustment or re-work shall be notified of the final outcome of the adjustment by Carrier. Any Shipper that wishes to object shall do so within thirty (30) Business Days after the date of notification by Carrier of the final outcome of the adjustment by Carrier.
- (g) If Petroleum overages or shortages exceed the following limits, Carrier shall commence an investigation within ten (10) Days of the date when any of the limits mentioned below have been exceeded and shall use reasonable efforts to determine the cause and provide written explanation to all affected Shippers by the last Day of the Month following the Month in which any of the limits set out below have been exceeded:

Bitumen Blend:	+0.10% to -0.30 %	of Petroleum Tendered per Month;
	+0.00% to -0.20 %	of Petroleum Tendered during the immediately preceding twelve (12) Months from the date of measurement;
Diluent:	+0.50% to -0.50 %	of Petroleum Tendered per Month;
	+0.20% to -0.20 %	of Petroleum Tendered during the immediately preceding twelve (12) Months from the date of measurement

16.3 All Petroleum Tendered or Delivered shall be documented with meter tickets, or the accepted electronic equivalent, showing:

- (a) Gross Standard Volume and Net Standard Volume Tendered or Delivered;
- (b) weighted average density;
- (c) weighted average temperature;
- (d) weighted average pressure; and
- (e) deductions for sediment and water.

All measurement procedures are to be conducted in accordance with API/ASTM standards and pipeline industry practice or such other tests as may be agreed upon by Carrier and Shippers in accordance with Section 4.3.

16.4 Carrier shall account to each Shipper for one hundred percent (100%) of Petroleum Tendered for its account. Adjustments for overages or shortages, including losses for shrinkage and evaporation incident to transportation, will be based on the proportion that such Shipper's total Deliveries from Carrier by stream bears to the total Deliveries of all Shippers from Carrier by stream. Overages or shortages will be calculated and prorated to Net Standard Volumes for each such stream on a Monthly basis.

16.5 Carrier's representative, upon reasonable notice to Shipper, shall have the right to enter upon the Shipper's premises where Petroleum is stored and have access to any and all tankage for the purpose of making any examination, inspection, measurement or test provided for under this Tariff.

16.6 Calibration, testing and adjustment (in this Section 16.6 collectively referred to as "testing") of meters shall be carried out by Carrier. Unless otherwise agreed to by a majority of Shippers Tendering a majority of the volume being metered by such meter, testing of a meter shall be conducted at a frequency of not greater than 30 Days +/- 5 Business Days of the previous test and at any other time upon request of a Shipper, such test to be at the cost of the Shipper if an error of less than the range specified in subsection 16.2 (b) is found. When in batch service, testing of meters shall be conducted once per batch, no greater than 5 Business Days after the commencement of the batch and at a frequency thereafter of not greater than 30 Days +/- 5 Business Days of the previous test and at any other time upon request of a Shipper, such test to be at the cost of the Shipper if an error of less than the range specified in subsection 16.2 (b) is found. For any meter that is tested, the variation of composite meter factor from test to test (reproducibility) shall not exceed statistically by greater than 3 standard deviations or greater than +/-0.25%, and if the change is confirmed by a second testing, the meter shall be taken out of service for inspection or repair. Reasonable prior notice of the time and nature of the testing of a

meter shall be given to those Shippers who Tender or Deliver Petroleum to or from the meter on which testing is being conducted to permit such Shippers or their representatives to be present.

- 16.7 All temperature and pressure instruments used in the determination of Petroleum volume shall be calibrated semi-annually by Carrier and a report sent by Carrier to those Shippers requesting the data. Continuous online instruments providing data for sediment and water, viscosity and density shall be verified weekly by Carrier and the results of such verification shall be available for viewing upon request by those Shippers who Tender or Deliver product to or from the meter on which the testing is being conducted. All meter provers used for testing meters shall be water drawn, at intervals not exceeding three (3) years, in accordance with the API Manual of Petroleum Measurement Standards, or the appropriate sections of any manual which replaces this standard. Calibration equipment used in the testing of field measurement devices must be certified at a minimum of once every two (2) years except for meter provers. All Parties shall have the right to witness any and all testing or calibrations of measurement devices.

ARTICLE 17 REPRESENTATIONS AND WARRANTIES

- 17.1 Carrier represents and warrants that, subject to any obligations accorded to any Shipper under a Contract, it shall operate its system on an open access basis, providing transportation for remuneration without undue discrimination among its Shippers, and that Carrier shall operate its pipeline facilities in accordance with all applicable laws, orders, and directions as may be made or approved by a Governmental Authority. Carrier does not offer a storage service.
- 17.2 Shipper represents and warrants that: (i) it has in place for all Tendered Petroleum all required approvals, permits and authorizations for the removal and transportation of Petroleum under this Tariff; (ii) it owns or controls, has the right to Tender or have Tendered for its account, the Petroleum that is Tendered to Carrier; (iii) it shall indemnify and hold harmless Carrier against all claims, actions or damages arising from any adverse claims by a third party claiming ownership or an interest in the Petroleum Tendered to Carrier; (iv) it will pay Carrier all amounts due under this Tariff by the Payment Due Date; (v) the execution, delivery and performance by Shipper of the Contract has been duly authorized by all necessary corporate or partnership action on the part of the Shipper and does not require any approval or consent of any other Person; and (vi) the Contract is in full force and effect, has been duly executed and delivered on behalf of Shipper and constitutes the legal, valid and binding obligation of Shipper and is enforceable against Shipper in accordance with its terms.

ARTICLE 18 GOVERNING LAW

- 18.1 The Tariff shall be construed and applied in accordance with and be subject to the laws of the Province of Alberta, and, where applicable, the laws of Canada, and shall be subject to the rules, regulations, decisions and orders of any Governmental Authority. No Party will institute any action, suit or other proceeding with respect to a Contract, the Petroleum Toll Schedule or the Tariff or any matter relating to Carrier other than in the Alberta Court of Queen's Bench in the judicial district of Calgary, or, if that court for any reason lacks subject matter jurisdiction, the appropriate court for the Province of Alberta or Canada, as applicable. In that regard, each Party hereby irrevocably attorns to the jurisdiction of such courts in Alberta or Canada in the event of any such action, suit or other proceeding by the other Party. The Parties specifically and knowingly waive a trial by jury and any such controversy shall be litigated before a trial judge.

**ARTICLE 19
FINANCIAL ASSURANCES**

- 19.1 Carrier may at any time request, and a Shipper shall provide if Carrier so requests, financial security for the payment of the charges to be paid by Shipper to Carrier for transportation service ("Financial Assurances"). If a Shipper's Financial Assurances are not provided to Carrier within thirty (30) days of such Shipper's receipt of Carrier's written request for such Financial Assurances, such Shipper shall thereupon be deemed to be in default under the Tariff and Carrier shall thereafter have the option to: (i) curtail Tenders from such Shipper until adequate Financial Assurances are provided; or (ii) terminate any Contract to which Shipper is a party.
- 19.2 The Financial Assurances that Carrier may request from a Shipper pursuant to the Tariff shall be limited to the following:
- (a) for any Shipper party to a Contract greater than one (1) year in term, an irrevocable letter of credit issued by a financial institution or such other equivalent financial guarantees in an amount, determined by Carrier in its sole discretion but not to exceed twelve (12) Months of charges based on Monthly Volume, which Financial Assurances shall remain in effect for no less than seventy (70) days beyond the termination of the Contract; provided that, if payment in full for the service for the entire Contract term has been received by Carrier, Carrier shall return and/or cancel such Financial Assurances forthwith.
 - (b) for any Shipper party to a Contract of one (1) year or less in term, at the option of Shipper, either prepayment of the tolls applicable to twice the Shipper's Nomination or an irrevocable letter of credit issued by a financial institution or such other equivalent financial guarantees in an amount equal to the Petroleum tolls times twice the Shipper's Nomination, which Financial Assurances shall remain in effect for not less than seventy (70) days beyond the termination of the service or of the period for which volumes are Tendered, as the case may be; provided that, if payment in full for all service has been received by Carrier, Carrier shall return and/or cancel such Financial Assurances forthwith.

The following must be acceptable to Carrier:

- (i) the terms of any letter of credit;
- (ii) the adequacy of any equivalent financial guarantees; and
- (iii) the identity of the issuing institution of any letter of credit or equivalent financial guarantee.

**ARTICLE 20
QUEUE FOR EXPANSION OF SYSTEM CAPACITY**

- 20.1 Subject to priority rights accorded any Shipper under a Contract, Carrier shall establish a queue for prospective shippers submitting requests for transportation service under a Contract. Requests for service shall be accorded priority based on the date such bid was received by Carrier. Subject to priority rights accorded any Shipper under a Contract, transportation service made available by Carrier as a result of any proposed expansions to Carrier's system, or any construction of an extension or a lateral shall be offered to prospective shippers based on their position in the queue for service.